

**SESSION LAWS**  
OF  
**HAWAII**  
PASSED BY THE  
**NINTH STATE LEGISLATURE**

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**REGULAR SESSION**  
**1978**

Convened on Wednesday, January 18

and

Adjourned sine die on Friday, April 14

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Published by Authority of the  
Revisor of Statutes  
Honolulu, Hawaii

## **AUTHORITY**

**Section 23G-13, Hawaii Revised Statutes, provides as follows:**

**Publishing of session laws.** As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

## **PREFACE**

This volume contains all the laws of the Regular Session of 1978. In the preparation of the volume, the text of the laws as enacted has been followed except for palpable clerical errors, which have been corrected; and the text has been printed in full except for laws amending existing statutes.

Amendatory legislations provide that the revisor of statutes, in printing the laws, need not print the brackets or the bracketed material (designating matter deleted from existing statutes), or the underscoring (designating new matter). For purposes of economy and readability, the laws have generally been edited as so permitted. In some cases, where the changes in language appeared not to be readily ascertainable without the brackets and underscoring, or for other reasons, the designations have been retained and printed herein. Notes indicate the laws that have been edited.

**HIDEHIKO UYENOYAMA**  
Revisor of Statutes

Honolulu, Hawaii  
July 3, 1978

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1978

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**Session Laws of Hawaii  
Passed By The  
Ninth State Legislature  
Regular Session  
1978**

ACT 1

S.B. NO. 1736-78

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated from the general revenues of the State the sum of \$1,552,093, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1979, including but not limited to the 1978 regular session, Ninth State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1978 and 1979 regular sessions.

SECTION 2. There is hereby appropriated from the general revenues of the State the sum of \$2,007,750, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1979, including but not limited to the 1978 regular session, Ninth State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1978 and 1979 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1978 and 1979 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1978 and 1979 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 17, 1979, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 17, 1979.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the

## ACT 2

provision of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$45 per day and authorized by the President of the Senate or the Speaker of the House of Representatives, respectively.

SECTION 6. There is hereby appropriated from the general revenues of the State the sum of \$1,217,180 to the office of the legislative auditor for the following expenses: (a) the sum of \$973,680, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1978-79, (b) the sum of \$93,500, or so much thereof as may be necessary, for defraying the expenses of the office of the State ethics commission during the fiscal year 1978-79; (c) the sum of \$150,000, or so much thereof as may be necessary, to be expended upon approval of this Act, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) interim legislative studies and for contractual services for such studies, (5) equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material, and (6) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is hereby appropriated from the general revenues of the State the sum of \$916,935, or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1978-79.

SECTION 8. There is hereby appropriated from the general revenues of the State the sum of \$284,009, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1978-79.

SECTION 9. As of the close of business on June 30, 1979, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is hereby declared to be severable from the remainder of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved February 2, 1978.)

ACT 2

H.B. NO. 264

A Bill for an Act Relating to Construction and Maintenance of Sidewalks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 265-32, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 265-32 Honolulu sidewalks, cleaning thereof.** Notwithstanding any ordinance to the contrary, after the establishment of the grades of streets within the city and county of Honolulu and the construction of streets and adjacent sidewalks under the improvement district ordinance every property owner whose property abuts the streets and sidewalks shall, after the construction of the streets and sidewalks, continuously maintain, and keep clean, passable, and free from weeds and noxious growths the whole of the sidewalk as may abut his property; except that the owner shall not be required to continuously maintain, and keep clean, passable, and free from weeds and noxious growth, an abutting sidewalk, the maintenance of which may be hazardous to the owner, and a sidewalk, which although abutting the owner's residential property, is so situated that there is no reasonable access from the property to the abutting sidewalk.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved March 7, 1978.)

ACT 3

H.B. NO. 216

A Bill for an Act Relating to Prepaid Health Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 393, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"Sec. 393-48 Prepaid health care benefits to be paid from the premium supplementation fund; recovery of benefits.** Prepaid health care benefits shall be paid from the premium supplementation fund to an employee who is entitled to receive prepaid health care benefits but cannot receive such benefits because of the bankruptcy of his employer or because his employer is not in compliance with this chapter. Benefits paid from the premium supplementation fund to such employee may be recovered from his bankrupt or noncomplying employer. The director shall institute administrative and legal actions as provided in section 393-33 to effect recovery of such benefits."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved March 7, 1978.)

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\*Edited accordingly.

A Bill for an Act Relating to the Wage and Hour Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 387-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 387-2 Minimum wages.** Except as provided in section 387-9 and this paragraph, every employer shall pay to each employee employed by him wages at the rate of not less than: \$2.65 per hour beginning July 1, 1978; \$2.90 per hour beginning July 1, 1979; \$3.10 per hour beginning July 1, 1980; and \$3.35 per hour beginning July 1, 1981. The hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than twenty cents below the applicable minimum wage by his employer and the combined amount he receives from his employer and in tips is at least fifty cents more than the applicable minimum wage."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect on July 1, 1978.

(Approved March 29, 1978.)

A Bill for an Act Relating to General and Special Fund Realizations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 79-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 79-5 Transfer of vacation credits.** When an officer or employee of the State or of any county, as the case may be, is transferred from one department or agency to another within the same government or to another within the State, he shall be given credit for the vacation earned or accumulated in the department or agency from which he transferred, and the director of finance of the State or the equivalent officers of the several counties, as the case may be, shall make the appropriate transfer of funds to implement the employee transfer; provided that moneys received from any such transfer of funds by a state agency financed by the general fund of the State shall be deposited with the director of finance of the State to the credit of the general fund of the State; provided, further, that when an officer or employee is transferred from one department or agency to another within the same government, the transfer of funds shall not be made if the employee's salary is paid from the same fund. Compensation for any period of vacation allowance shall be paid at the rate to which the employee is entitled at the time the allowance is granted."

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\*Edited accordingly.

SECTION 2. Section 106-22, Hawaii Revised Statutes, is amended to read:

**"Sec. 106-22 Proceeds.** Except as otherwise provided in section 106-21, or by any other law, all moneys received from the sale of any personal property by any office, department, board, establishment, institution, or other agency (all being hereinafter included in the term "agency") shall be deposited with the director of finance to the credit of the general fund of the State where the operation of the agency is financed from the general fund; provided, that where any personal property has been purchased with moneys in a special fund, the proceeds of the sale shall be paid into or credited to the special fund. In any case of doubt as to the application of any such proceeds, the comptroller shall determine the fund or appropriation to which the proceeds shall be credited pursuant to this section, and his decision shall be final."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved March 31, 1978.)

ACT 6

S.B. NO. 2599-78

A Bill for an Act Relating to the State Foundation on Culture and the Arts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 9-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 9-2 Establishment of foundation.** There is hereby created a state foundation on culture and the arts composed of nine members to be appointed and removed by the governor pursuant to section 26-34. The term of each member shall be for four years, commencing on January 1 and expiring on December 31; provided that of the nine members appointed for terms commencing January 1, 1978, three members shall serve for four years, three members shall serve for three years and the remaining three members shall serve for two years. The governor shall appoint the chairman of the foundation from among the members thereof. The members of the foundation shall serve without compensation, but they shall be reimbursed for travel and other necessary expenses in the performance of their official duties.

The foundation shall be placed within the department of budget and finance."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved March 31, 1978.)

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\*Edited accordingly.

A Bill for an Act Relating to Health Care Facilities Identification and Regulations Generally.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 321-11 Subjects of health regulations, generally.** The department of health may make such regulations as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, or vapors, waters in which mosquitoes breed or may breed, sources of filth, causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing or removing of such bodies from their place of burial or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided, that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, [maternity homes, convalescent homes, children's boarding homes, old folks homes, and home health agencies;] freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, care homes, special treatment facilities and programs, home health agencies.
- (11) Hotels, rooming houses, lodging houses, apartment houses, and tenements;

- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;
- (14) Milk;
- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department there is danger of an epidemic from any communicable disease;
- (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department may be lethal, poisonous, noxious, or dangerous to human life;
- (25) Ambulances and ambulance equipment.

The department may require such certificates, permits or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section."

## ACT 8

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 4, 1978.)

## ACT 8

S.B. NO. 2612-78

A Bill for an Act Relating to Revenue Bonds Issued by the State of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 39-53, Hawaii Revised Statutes, is amended to read:

**"Sec. 39-53 Additional powers of departments.** In addition to the powers which it may otherwise have, any department shall have power under this part:

- (1) To construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better, or extend any undertaking within its jurisdiction, and to acquire by gift, purchase, or the exercise of the right of eminent domain, lands or rights in land or water rights in connection therewith;
- (2) To operate and maintain any undertaking within its jurisdiction and furnish the services, facilities, and commodities thereof for its own use and for the use of public and private consumers;
- (3) To issue revenue bonds of the State in the amounts authorized by specific act or acts of the legislature of the State to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking;
- (4) To impose, prescribe, and collect rates, rentals, fees, and charges for the use and services of, and the facilities and commodities furnished by, the undertaking; and
- (5) To pledge the punctual payment of the revenue bonds and interest thereon, or to covenant to pay into any special funds from which any of the revenue bonds may be payable, the revenues of the undertaking, or of any part thereof, or the user taxes derived therefrom, or any combination of both (including improvements, betterments, or extensions thereto thereafter constructed or acquired) sufficient to pay the revenue bonds and interest as they shall become due and to create and maintain reasonable reserves to pay the principal and interest; provided[,] that no user taxes shall be pledged to such payment unless the legislature in the specific act or acts authorizing the issuance of the revenue bonds shall have provided that such revenue bonds may be payable from and secured by such user taxes. The amount so pledged or covenanted to be paid may consist of all or any part or portion of such revenue, or of such user taxes, or any combination of both.

The department, in determining the cost, may include all costs and estimated costs of the issuance of the revenue bonds, all engineering, inspection,



fiscal, and legal expenses, the cost of causing the payment of the principal or interest or both of the revenue bonds to be insured or guaranteed, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this part.”

SECTION 2. Section 39-54, Hawaii Revised Statutes, is amended to read:

**“Sec. 39-54 Authorization of undertaking; form and contents of revenue bonds.** The issuance of revenue bonds for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking shall be authorized:

- (1) By a resolution or resolutions of the governing body of the department, which may be adopted at the same meeting at which the same are introduced by a majority of all the members of the governing body of the department then in office, and shall take effect immediately upon filing with the director of finance of the State, or
- (2) By a certificate or certificates of a department head, which shall take effect immediately upon filing with the director of finance.

The revenue bonds shall bear interest at such rate or rates, payable semiannually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding thirty years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered, as the resolution or certificate, subsequent resolutions or certificates, may provide. The revenue bonds may be sold at private sale to the United States, or any agency, instrumentality, or corporation thereof, or to the state employees retirement system, or to any political subdivision of the State. Unless so sold at private sale, the revenue bonds shall be sold at public sale after notice of the sale published once at least five days prior to the sale in a newspaper circulating in the State and in a financial newspaper published in any of the cities of New York, Chicago, or San Francisco.

The revenue bonds shall be sold for not less than [ninety-eight per cent] ninety-five per cent of the principal amount thereof. Pending the preparation of the definitive revenue bonds, interim receipts or certificates in such form and with provisions as the department may determine may be issued to the purchaser or purchasers of revenue bonds sold pursuant to this chapter. The revenue bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of chapter 490, Uniform Commercial Code.”

SECTION 3. Section 39-54.5, Hawaii Revised Statutes, is amended to read:

**“Sec. 39-54.5 CUSIP numbers.** The department issuing revenue bonds pursuant to this part in its discretion may provide that CUSIP identification numbers shall be imprinted on such revenue bonds. In the event such numbers are imprinted on any such revenue bonds [(i)] (1) no such number shall constitute a part of the contract evidenced by the particular revenue bond upon which it is

## ACT 9

imprinted and [(ii)] (2) no liability shall attach to the State, the department or any officer or agent of either thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, and including any use thereof made by the State, the department, any such officer or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department in its discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 6, 1978.)

## ACT 9

S.B. NO. 1759-78

A Bill for an Act Relating to Leaves of Absence.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 79-23, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 79-24, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 79-24 Status of persons temporarily employed.** Notwithstanding any other law to the contrary, any person who has filled or who may fill a position left vacant as a result of an officer or employee having entered active military service shall be removed from the position so as to enable the returning officer or employee to be restored to his position in accordance with applicable federal laws. An employee who has filled or may fill a position affected by a subsequent vacancy shall also be subject to removal. The civil service laws of the State and the counties and the rules and regulations prescribed thereunder shall not be applicable to the removal. Any person appointed in accordance with civil service laws and who is removed from the position by the restoration of the officer or employee returning from military service shall be eligible to have his name placed on the appropriate reemployment list in accordance with the rules and regulations as may be prescribed. The appointing authority shall inform each employee who fills the position the status of his employment and the provisions of this section."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the bracket, the bracketed material or the underscoring.\*

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\*Edited accordingly.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 7, 1978).

ACT 10

S.B. NO. 1799-78

A Bill for an Act Relating to the Establishment of State Policy Concerning the Utilization of Volunteer Services in State Government.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds that a continuing need and growing movement is the increasing utilization of volunteer services by state agencies to supplement, strengthen and support their ability to accomplish their missions. The spirit of citizens volunteering their time and energy has been a fundamental ingredient to the birth of the democratic government. Presently, organized (formal) volunteer programs with the Departments of Health, and Social Services and Housing and with the Judiciary, as well as the Department of Education which has vast numbers of volunteers who traditionally volunteer in the public school and library systems, demonstrate the vital role in which volunteers assist and augment the services of the State.

The 1974 census estimates that one out of every four Americans over the age of 13 is a volunteer. Volunteers can contribute even more to ameliorating our social, environmental, economic, and human problems. Statutory provisions governing volunteer services and a philosophy for the use of volunteers, would support effective and full use of volunteers.

The purpose of this Act is to foster the continuing development of volunteer programs in state government based on the following premises:

- (1) That every citizen regardless of his present economic condition, race, color, ancestry, political affiliation, religious affiliation, sex, age, physical or mental handicap, or marital status has the right to volunteer;
- (2) That volunteers supplement but do not compete with nor supplant paid jobs;
- (3) That volunteers provide an extra source of caring that cannot be evaluated in monetary or material terms;
- (4) That volunteering provides citizens with an opportunity to be responsive to and supportive of the state government.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
STATE POLICY CONCERNING THE  
UTILIZATION OF VOLUNTEER SERVICES**

**Sec. -1 Definitions.** As used in this chapter, unless the context requires otherwise:

- (1) The term “agency” means any state agency within the executive, legislative, and judicial branches but excludes the several counties.
- (2) The term “person” means any individual or organization.
- (3) The term “volunteer” means any person, who of his own free will, provides goods or services to an agency with no monetary or material gain and includes material donors, occasional-service, regular-service, and stipended volunteers.
- (4) “Material donor” means any person who of his own free will provides funds or materials to an agency.
- (5) “Occasional-service volunteer” means any person who offers to provide a one-time, on call or single task service to an agency without receipt of any compensation, except as provided in this chapter.
- (6) “Regular-service volunteer” means any person engaged in specific voluntary service activities on an on-going or continuous basis to an agency without receipt of any compensation, except as provided in this chapter.
- (7) “Stipended volunteer” means any person who by receiving a support allowance is then able to provide voluntary service to an agency. The allowance may be for food, lodging, or other personal living expenses and does not reflect compensation for work performed.

**Sec. -2 Scope of chapter; status of volunteers.** (a) an agency may recruit, train, and accept the services of volunteers.

(b) No person shall on the basis of sex, age, race, color, ancestry, religion, national origin, marital status, physical or mental handicap, or political grounds, be excluded from participation in, or be denied the benefits of, any volunteer program or volunteer activity.

(c) Volunteers recruited, trained, or accepted by an agency shall be excluded from any provision of law relating to state employment, from any collective bargaining agreement between the state and any employees’ association or union, from any law relating to hours of work, rates of compensation, leaves, and employee benefits, and from any other provision of title 7, except those consistent with this chapter.

(d) An agency may reimburse volunteers for expenses, consistent with the provisions of section -4, as deemed necessary to assist volunteers in performing their services.

(e) An agency may designate a person or establish a position to coordinate and administer the volunteer activities of that agency.

**Sec. -3 Rights, responsibilities, and expectations in volunteer relationships.** (a) Every person regardless of his present economic condition, race, color, ancestry, political affiliation, religious affiliation, sex, age, physical or mental handicap, or marital status has the right to volunteer his services to an agency. An agency has the right to decline any voluntary offer of services, or if accepted, to release subsequently the volunteer who is no longer needed or who is found to be unacceptable.

(b) A volunteer providing services to an agency may expect:

- (1) That he will be assigned a job that is worthwhile and challenging, and

which permits him the freedom to use existing skills or develop new ones.

- (2) That he will be trusted with information that will help him carry out the assignment.
- (3) That he will be kept informed about what is going on in the specific volunteer areas.
- (4) That he will be provided orientation, training, and supervision for the job he accepts so he will know why he is being asked to do a particular task.
- (5) That his time will not be wasted by lack of planning, coordination, and cooperation within the organization.
- (6) That he will receive feedback as to whether his work is effective and how it can be improved.
- (7) That he will be reimbursed for out-of-pocket costs if it is the only way he can volunteer.
- (8) That he will receive letters of recommendation and reference from his supervisor upon request.
- (9) That he will be given appropriate recognition for his volunteer services.
- (10) That he will be provided a designated supervisor.
- (c) A volunteer providing services to an agency has the responsibility to:
  - (1) Accept assignments given to him.
  - (2) Fulfill his commitment or notify the designated person of his change of plans.
  - (3) Follow guidelines and policies established by the agency.
  - (4) Respect the values and beliefs of others.
  - (5) Use time wisely and not interfere with the job performance of others.
  - (6) Provide feedback, suggestions, and recommendations to his supervisor regarding the program.
  - (7) Be considerate, respect competencies, and work as a member of a team with staff and other volunteers.
- (d) The agency utilizing the services of volunteers may expect:
  - (1) That the volunteer will fulfill his assignment as agreed upon or will notify staff sufficiently in advance if he cannot complete it.
  - (2) That the volunteer will not go beyond his competencies and authority.
  - (3) That the volunteer will submit feedback, suggestions, and recommendations about the program to his supervisor.
  - (4) That the volunteer will maintain confidentiality and will respect and treat the recipients of volunteer services with dignity.
- (e) The agency utilizing the services of volunteers has the responsibility to:
  - (1) Use volunteers to extend services without displacing paid employees.
  - (2) Provide each volunteer with a designated supervisor.
  - (3) Provide staff orientation and training in the use and supervision of volunteers.
  - (4) Define volunteer jobs that are meaningful to the volunteer and commensurate with his abilities.
  - (5) Be alert to assignments for handicapped or disabled volunteers.
  - (6) Make it possible for a volunteer to serve on a trial or probationary basis

for a specified period.

- (7) Provide orientation and training to improve the volunteer's skills.
- (8) Provide volunteers with clear instructions and an adequate work space.
- (9) Accept the volunteer as part of the team, including him in training and staff meetings that pertain to his work.
- (10) Establish and communicate clearly defined lines of supervision so that the volunteer knows to whom he is responsible.
- (11) Provide appropriate recognition and appreciation to the volunteer.
- (12) Provide written guidelines governing the recruitment, screening, utilization and supervision of volunteers.
- (13) Recognize an applicant's prior volunteer service in evaluating fulfillment of training and experience requirements for state employment pursuant to rules adopted by the department of personnel services, the judiciary, and the board of regents of the University of Hawaii.
- (14) Provide funds for volunteer benefits as specified in section -4.
- (15) Provide recognition of paid staff for support and supervision of volunteers.

**Sec. -4 Volunteer benefits.** Volunteer benefits shall be provided within the limits of an agency's budget as follows:

- (1) Meals may be furnished without charge or the cost thereof may be reimbursed to volunteers serving the agency.
- (2) Lodging may be furnished temporarily without charge or the cost thereof may be reimbursed to volunteers.
- (3) Transportation reimbursement including parking fees, bus, and taxi fare may be furnished to volunteers. Mileage reimbursement when provided for shall be furnished at a rate comparable to that of permanent employees performing similar duties. Volunteers may be authorized to use state vehicles in the performance of official state duties.
- (4) Solely for the purposes of chapter 662, volunteers are hereby deemed as "employees of the State," when acting for an agency in their capacity as volunteers.
- (5) Out-service training and conference reimbursement may be furnished for volunteers.
- (6) Personal liability insurance coverage may be furnished for volunteers.
- (7) Reasonable expenses incurred by volunteers in connection with their assignments may be reimbursed.
- (8) Recognition of volunteer service may include a recognition ceremony, certificates, and awards to be determined by the agency.

**Sec. -5 Agency reports, required information.** An agency as part of its annual report to the governor, the legislature, or the chief justice shall include estimates of:

- (1) The total number of volunteers and the total number of hours of service broken down into categories of regular-service volunteers, occasional volunteers, stipended volunteers, and material donors.
- (2) A list of volunteer job titles used by the agency."

SECTION 2.† This Act shall take effect upon its approval.  
(Approved April 7, 1978.)

ACT 11

S.B. NO. 2414-78

A Bill for an Act Relating to Retirement System Investments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow the employees retirement system to increase the maximum amount of residential mortgage loans made under an eighty per cent of value loan from \$50,000 to \$75,000.

Recent statistics have indicated that the median price of a home on Oahu is approximately \$100,000. The intent of this Act is to raise the loan limit through the above-mentioned statutory change to relieve potential home purchasers from the tremendous down payment (equity) requirement which is a consequence of inflation since the \$50,000 loan ceiling was established in 1967.

SECTION 2. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-119 Investments.** Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431-286) of any of the following classes:
  - (A) Obligations secured by mortgages of non-profit corporations desiring to build multi-rental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.
  - (B) Obligations secured by mortgages insured by the federal housing administration.
  - (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act.
  - (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed [75] seventy-five per cent of the value of the real estate mortgaged to secure it, except that if the obligation is for an amount of [\$50,000] \$75,000 or less, the amount of the obligation shall not exceed [80] eighty per cent of the real estate mortgaged to secure it. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431-293(a).
  - (E) Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (i) each such leasehold in-

†Probably should read "3".

terest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed [75] seventy-five per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of [\$50,000] \$75,000 or less, the amount of the obligation shall not exceed [80] eighty per cent of the value of the respective leasehold interest and improvements.

- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 208 of the Hawaiian Homes Commission Act, 1920.

The board of trustees may retain such real estate (including leasehold interests therein) as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted, provided that all such real estate (other than leasehold interests) shall be sold within five years after acquiring the same (subject to extension by the governor for additional periods not exceeding five years each) and all such leasehold interests shall be sold within one year after acquiring the same (subject to extension by the governor for additional periods not exceeding one year each).

- (2) Government obligations, etc. Obligations of any of the following classes:
- (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing, provided that principal of and interest on such obligations are payable in currency of the United States.
  - (B) Revenue bonds (whether or not permitted by any other provision hereof) of the State or any municipal or political subdivision thereof (including the board of water supply of the city and county of Honolulu), and street or improvement district bonds of any district or project in the State.
  - (C) Obligations issued or guaranteed by any federal home loan bank (including consolidated federal home loan bank obligations), the home owner's loan corporation, the federal national mortgage association, or the small business administration.
- (3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
- (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred and fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred and fifty per cent of its fixed charges for such year.



(B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in [clause] subparagraph (A) above.

(C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation of services) with a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in [clause] subparagraph (A) above.

As used in this [subsection,] paragraph, the terms “fixed charges” and “net earnings available for fixed charges” shall have the meanings and application ascribed thereto in sections 431-286 and 431-287.

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof, provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks.
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank or by the Asian Development Bank.
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations.
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein.
- (9) Other securities. Securities and stock in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, whether or not the securities or stock are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any

## ACT 12

limitation of any of the foregoing [subsections] paragraphs (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 7, 1978.)

## ACT 12

S.B. NO. 1129

A Bill for an Act Relating to Coffee Inspectors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 147-7, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 147-7 Inspection and classification of agricultural commodities; fees.** The department of agriculture may contract with the United States Department of Agriculture for obtaining the services of a supervising inspector employed by the federal department and the establishment of a cooperative inspection service with the United States government. The board of agriculture, or the supervising inspector with the approval of the board, may designate any competent employee or agent of the department as an inspector to inspect or classify agricultural commodities in accordance with such rules and regulations as the department may make, and at such time and places as may be designated by the supervising inspector or the board. In addition, such inspectors shall be authorized to inspect or classify agricultural commodities at the request of persons having a financial interest in the commodities and to ascertain and certify to such persons the grade, classification, quality, or condition thereof and other pertinent facts. The department may fix, assess, and collect or cause to be collected fees for such services when they are performed by employees of the department. The fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of inspection and the administration of this part; provided that the department may prescribe a reasonable charge for traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance. No fee shall be charged for an inspection unless the inspection was requested by a person having a financial interest in the inspected commodity. Coffee inspectors appointed under this section shall be exempt from the provisions of chapters 76 and 77.”

SECTION 2. Section 147-58, Hawaii Revised Statutes, is amended to read:

**“Section 147-58 Department; inspections, etc.; request necessary.** The board of agriculture may designate any employee or agent of the department

of agriculture to inspect or classify food products, in accordance with such regulations as the department may prescribe, at the request of persons having an interest in the products, and to ascertain and certify to the persons the grade, classification, quality, or condition thereof and such other pertinent facts as the department may require. Such inspections, classifications, and certifications shall be requested, and in no case shall be required by the department. Coffee inspectors appointed under this section shall be exempt from the provisions of chapters 76 and 77."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon approval.

(Approved April 8, 1978.)

ACT 13

S.B. NO. 1682-78

A Bill for an Act Relating to Unlawful Suspension or Discharge from Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 62I, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 621- Unlawful suspension or discharge from employment; penalty; right of action.** (a) An employer shall not deprive an employee of his employment, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a witness or attends court as a prospective witness.

(b) Any employer who violates subsection (a) is guilty of a petty misdemeanor.

(c) If an employer discharges or suspends an employee in violation of subsection (a) the employee within ninety days from the date of discharge or suspension may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed lost wages for six weeks. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 12, 1978.)

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\*Edited accordingly.

A Bill for an Act Relating to Non-Competitive Promotions of Public Employees.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-23, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 76-23 Filling vacancy.** All vacancies and new positions in civil service shall be filled in the manner prescribed in this part or in section 78-1.

Whenever there is a position to be filled, the appointing authority shall request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the reemployment lists and third the open-competitive lists; provided, that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. The director shall submit eligibles in the order that they appear on the eligible list; provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to him as eligibles on an intradepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an intradepartmental promotional examination, in which case the director shall hold either an interdepartmental or an intradepartmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to him unless he finds no person acceptable to him on the list certified by the director, in which case he shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states his reasons in writing for rejecting each of the eligibles on the list previously certified to him by the director, or in the case of the counties, by the civil service commission. Eligible lists, other than reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in his department by promoting any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which he is to be promoted, and if the position is in the same or related series as the position held by the employee; provided, that when there is no material difference between the qualifications of the employees concerned, the employee with the longest [government service] continuous civil service employment within the State or county granting the promotion shall receive first consideration for the promotion.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to his having completed one year of satisfactory service in the position to which he was so promoted, but he may at any time be eligible for a promotion to any position through examination.

An employee filling a permanent position temporarily vacant may be given a permanent appointment to the position if it later develops that the vacancy will be permanent, provided he was originally appointed from an appropriate eligible list and the appointing authority certifies that he has been performing the duties of the position in a satisfactory manner."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 12, 1978.)

ACT 15

S.B. NO. 1757-78

A Bill for an Act Relating to Provisional Appointments of Public Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Provisional appointment pending establishment of an eligible list. Where there is no eligible available on a list appropriate for filling a vacancy in a continuing position and the public interest requires that the vacancy be filled before eligibles can be certified, the director of personnel services may authorize filling of the vacancy through provisional appointment. The director shall proceed without delay to announce an examination for the filling of the vacancy. The appointment shall continue only for such period as may be necessary to make an appointment from a list of eligibles but shall not extend beyond one hundred eighty days in any twelve-month period, provided that the director may extend the provisional appointment for an additional six month period. The conditions under which the director may extend provisional appointments shall be prescribed by rules and regulations."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 12, 1978.)

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\*Edited accordingly.

A Bill for an Act Relating to Hazardous Materials Transported Upon Highways.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-191, Hawaii Revised Statutes, is amended to read:

**“Sec. 286-191 Exterior markings on vehicles.** (a) No vehicle, except a tank vehicle, shall be operated or used in the State if it contains, carries or is loaded with any hazardous material of the classes of Hazardous Materials set forth in Column A of item (1), in excess of the Maximum Exempt Quantity set forth opposite that class in Column B of item (1), unless there is displayed on each such vehicle a marking or markings in conformity with the Type of Marking set forth opposite that class in Column C of item (1) and the requirements of items (2) to (5).

(1) Column A	Column B	Column C
Classes of Hazardous Materials	Maximum Exempt Quantity	Type of Marking
Explosives, Class A or a combination of Explosives, Class A and Explosives, Class B	No exemption	EXPLOSIVES A (red letters on white background)
Explosives, Class B	No exemption	EXPLOSIVES B (red letters on white background)
Poison, Class A	No exemption	POISON (blue letters on white background)
Poison, Class B	999 lb. gross weight	POISON (blue letters on white background)
Flammable Liquid	999 lb. gross weight	FLAMMABLE (red letters on white background)
Flammable Solid	999 lb. gross weight	FLAMMABLE (red letters on white background)
Oxidizing Material	999 lb. gross weight	OXIDIZERS (yellow letters on black background)
Nonflammable Compressed Gas	999 lb. gross weight	COMPRESSED GAS (green letters on white background)

(1) Column A	Column B	Column C
Classes of Hazardous Materials	Maximum Exempt Quantity	Type of Marking
Corrosive Liquid	999 lb. gross weight	<b>CORROSIVES</b> (blue letters on white background)
Flammable Compressed Gas	999 lb. gross weight	<b>FLAMMABLE GAS</b> (red letters on white background)
Radioactive Yellow III (Title 49, Code of Fed. Regs., Section 173.414(d))	No exemption	<b>RADIOACTIVE</b> (black letters on yellow background)
Mixed Ladings (item 4)	See item (4)	<b>DANGEROUS</b> (red letters on white background)

- (2) The markings specified in column C of item (1) shall consist of letters not less than four inches high, in the color specified, using a stroke of approximately five-eighths inch. The background coloring specified in column C of item (1) and in subsections (b) and (c) shall extend at least one inch above and below the lettering. The marking may either be applied directly to the vehicle or inscribed upon a placard which shall be securely affixed to an area on the vehicle which has no other marking, lettering, or graphic display within three inches of the marking except such markings as may be required by item (4) or subsections (b) or (c).
- (3) The markings shall be displayed at the front, rear and on each side of the vehicle in which the hazardous material is contained. The front marking may be displayed on the front of the truck, truck body, truck tractor or the trailer but shall be located where it is plainly visible.
- (4) Whenever more than one class of hazardous material listed in column A of item (1) is contained, carried or loaded on any vehicle for each of which no marking is required unless the gross weight exceeds 999 pounds, if the aggregate gross weight of the combination of hazardous materials exceeds 999 pounds the marking "DANGEROUS" shall be displayed; provided that if one of the classes of hazardous materials is Explosives, Class A; Explosives, Class B; Poison, Class A; or Radioactive Material requiring labeling under Title 49, Code of Federal Regulations, Section 173.416(c), the marking "EXPLOSIVES A", "EXPLOSIVES B", "POISON" or "RADIOACTIVE" as appropriate, shall be displayed in addition to the marking "DANGEROUS"; and provided further that if Explosives, Class A and Explosives, Class B are contained, carried or loaded on the same vehicle the marking "EXPLOSIVES B" need not be displayed.
- (5) In any combination of two or more vehicles, each containing one or

more of the classes of hazardous materials listed in item (1), each vehicle shall be marked as to its contents in accordance with items (1) to (4).

(b) Except as provided in provisos (1) to (5) every tank vehicle used for the transportation of any of the classes of hazardous materials listed in subsection (a)(1) shall be marked in accordance with subsection (a) regardless of the quantity of the hazardous material therein contained, carried or loaded and even if empty; provided that:

- (1) If the tank contains no hazardous material but only a commodity or commodities which are not classed as hazardous materials, the marking required by this section shall not be displayed;
- (2) If the tank vehicle contains, carries or is loaded with gasoline, the vehicle may be marked "GASOLINE" instead of "FLAMMABLE" in lettering and background of the same coloring and dimensions as for the marking "FLAMMABLE";
- (3) If a tank vehicle contains, carries or is loaded with flammable compressed gas, it shall be marked with the common name of the contents in red letters not less than two inches high, using a stroke of approximately one-fourth inch, on a white background, in addition to the marking requirements of subsection (a);
- (4) If a tank vehicle contains, carries or is loaded with nonflammable compressed gas, it shall be marked with the common name of the contents in green letters not less than two inches high using a stroke of approximately one-fourth inch, on a white background, in addition to the marking requirements of subsection (a);
- (5) If a cargo tank is manufactured to meet Specifications MC 330 and MC 331 issued by the United States Department of Transportation it shall, in addition to other applicable requirements of this section, be durably marked in letters not less than two inches high in the area immediately adjacent to the identification plate with the inscription "QT" if it is constructed of quenched and tempered steel or "NOT" if it is constructed with other than quenched and tempered steel.

(c) In addition to displaying the markings required by subsections (a) and (b), each vehicle containing, carrying or loaded with a hazardous material that is incompatible with water, shall display the marking "CARGO FIRE—AVOID WATER" or words of similar import denoting that water should not be used in an attempt to extinguish a fire involving the cargo. The marking shall consist of black letters not less than two inches high, using a stroke of approximately one-fourth inch, on a white background. The marking shall be displayed immediately adjacent to all markings on the vehicle required by this section.

(d) Except as otherwise provided for tank vehicles any marking required by this section shall be removed or covered when the vehicle does not contain or carry or is not loaded with the hazardous material for which the marking is required.

(e) For the purposes of this section the following terms shall have the following meanings unless the context shall clearly indicate otherwise:

"Hazardous material" means any article (1) classed in the List of Hazardous Materials, 49 Code of Federal Regulations section 172.5 as Ex-



plosives, Class A; Explosives, Class B; Poison, Class A; Poison, Class B; Flammable Liquid; Flammable Solid; Oxidizing Material; Non-flammable Compressed Gas; Corrosive Liquid or Flammable Compressed Gas; (2) for which the label "RadioActive Yellow-III" is required by Title 29, Code of Federal Regulations, section 173.414(d) and (3) any other article which the state highway safety coordinator may by rule, adopted pursuant to chapter 91, declare to be a hazardous material.

"Tank vehicle" means every vehicle constructed with a permanently attached container designed to hold bulk liquids, fluids or gases.

(f) If this section would require markings or placards which are not uniform with federal requirements applicable to similar motor vehicles transporting similar quantities of hazardous materials in commerce, the director of transportation shall adopt rules pursuant to chapter 91, necessary to provide for uniformity of State and federal requirements. When such rules are duly adopted, the requirements of this section which are in conflict with the rules shall be deemed to be superseded by the rules.

[(f)] (g) Any person who violates this section or any rule adopted pursuant to this section shall be [imprisoned not more than thirty days or fined not more than \$100, or both.] subject to civil penalty under section 286-206."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval. The director of transportation shall implement the provisions of this Act by July 1, 1978.

(Approved April 12, 1978.)

## ACT 17

S.B. NO. 2380-78

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 304-3 Regents; appointment; tenure; qualifications; meetings.** The affairs of the university shall be under the general management and control of the board of regents consisting of eleven members who shall be appointed and may be removed by the governor. Except as otherwise provided by statute, state officers shall be eligible to appointment and membership. Every member may serve beyond the expiration date of his term of appointment until his successor has been appointed and has qualified. The board shall at its first meeting after June 30, elect a chairman and vice-chairman, who shall serve until adjournment of its first meeting after June 30 of the next year or thereafter until their successors are appointed and have qualified and whose election shall be immediately certified by the board to the lieutenant governor. The board shall appoint a secretary, who

## ACT 18

shall not be a member of the board. The president of the university shall act as executive officer of the board. The board shall meet not less often than ten times annually, and may from time to time meet in each of the counties of Hawaii, Maui, and Kauai.

The members of the board shall serve without pay but shall be entitled to their traveling expenses within the State when attending meetings of the board or when actually engaged in business relating to the work of the board."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1978.)

## ACT 18

H.B. NO. 2097-78

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 87-3 Purpose of the fund.** The fund shall be used for the purpose of providing employee-beneficiaries and dependent-beneficiaries with a health benefits plan, provided that the fund may be used for other expenses necessary to effectuate the purpose and provided further that any rate credit or reimbursement from any carrier or any earning or interest derived therefrom shall be used in addition to such purposes to (1) finance State and county contributions for the dental benefits plan for children under the age of nineteen, as described in section 87-4; and (2) finance the employee's portion of the monthly contribution of a health benefits plan for a retired employee, as described in section 87-1(5) (A) (ix), or upon his death his beneficiary as described in section 87-1(6).

To the extent that contributions are provided for group life insurance benefits in section 87-4, the fund shall also be used for the purpose of providing group life insurance benefits to employees."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1978.)

## ACT 19

S.B. NO. 1597-78

A Bill for an Act Relating to Tax Incentives for Energy Conservation.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*Edited accordingly.

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 235- Energy conservation devices for hot water heaters; income tax credit.** (a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for the cost and installation of material for the insulation of a hot water heater tank and hot water pipes where exposed. The tax credit shall be granted for the total cost and installation of the insulation material for the hot water heater tank and hot water pipes where exposed; provided the tax credit shall not exceed \$30. The credit shall be claimed against net income tax liability for the year in which the insulation material was purchased and installed; provided the tax credit shall be applicable only in respect to hot water heater tank and hot water pipe insulation material which is installed after December 31, 1977 but before December 31, 1984. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted.

(b) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish reasonable information in order to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(c) As used in this section, "insulation material" means any new identifiable material, device, apparatus, or the like that covers, wraps, surrounds, or can otherwise be affixed to a hot water tank and exposed hot water pipes to prevent or reduce the loss of heat from the tank."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1977.

(Approved April 17, 1978.)

ACT 20

S.B. NO. 1659-78

A Bill for an Act Relating to Collection Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 443-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

"( ) "Principal collector" means a person who has been determined by the board to be qualified to assume responsibility for the operations and activities of a collection agency."

\*Edited accordingly.

## ACT 21

SECTION 2. Section 443-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 443-8 License required.** (a) No person within the purview of this chapter shall act, or assume to act, or advertise, as a collection agency, without a license previously obtained under and in compliance with the provisions of this chapter and the rules and regulations of the board.

(b) No person shall act or assume to act or advertise as a collection agency unless the business thereof is under the direct management and control of a principal collector."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

## ACT 21

S.B. NO. 1660-78

A Bill for an Act Relating to Speech Pathology and Audiology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 468E-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 468E-5 Eligibility for licensure.** To be eligible for licensure by the board as a speech pathologist or audiologist, a person shall:

- (1) Be of good moral character;
- (2) Possess at least a master's degree or its equivalent in the area of speech pathology or audiology, as the case may be, from an educational institution recognized by the board;
- (3) Submit to the board evidence of eligibility for meeting the requirements of the American Speech and Hearing Association for the certificate of clinical competence in speech pathology and/or audiology;
- (4) Pass a written examination approved by the board."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

## ACT 22

S.B. NO. 1662-78

A Bill for an Act Relating to Veterinary Examinations.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*Edited accordingly.

SECTION 1. Section 471-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 471-8 Examinations; qualifications of applicants.** No person shall be licensed to practice veterinary medicine unless he has passed an examination of his qualifications and fitness to engage in such practice given by the board of veterinary examiners. Before any applicant shall be eligible for examination under this chapter he shall, at least thirty days before the date set for examination, file an application in such form as shall be prescribed by the board, pay to the department of regulatory agencies an examination fee of \$100, and furnish proof satisfactory to the board that:

- (1) He is eighteen or more years of age and of good moral character;
- (2) He is a graduate of a veterinary college meeting all the standards established by the American Veterinary Medical Association, or, in lieu thereof, has actively practiced for ten out of twelve years immediately preceding the date of application in a state having standards for licensing comparable to those in the State.

Examinations shall be given by the board [in April and September of] twice each year except when there are no applications pending. They shall be composed of written and oral questions and practical demonstrations. The same questions shall be given to each person being examined during a particular examination. The subject matter of the examinations shall embrace the subjects and demonstrations of practical ability normally covered in the curricula of American Veterinary colleges.

The requirements imposed by this section shall not be a bar to renewal, reissuance, or restoration of any license issued prior to May 13, 1949."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

ACT 23

S.B. NO. 1663-78

A Bill for an Act Relating to the Hawaii Insurance Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-370, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-370 Examinations for license.** (a) Except as provided in section 431-371 with respect to solicitors, each applicant for license as general agent, subagent, solicitor, or adjuster shall prior to the issuance of any such license, personally take and pass to the satisfaction of the insurance commissioner an examination given by the commissioner as a test of his qualifications and competence; but this requirement shall not apply to:

- (1) Applicants for limited licenses, as travel insurance subagents or solicitors only, under section 431-379;

- (2) Applicants who at any time within the five-year period next preceding date of application held a license in this State which conferred powers comparable to those being applied for;
- (3) Applicants for license as nonresident agent or broker who have fulfilled qualification requirements in their state of residence and who are deemed by the commissioner to be fully qualified and competent;
- (4) Applicants for a general agent's, subagent's or solicitor's license for life insurance or life and disability insurance who hold the designation chartered life underwriter (C.L.U.) from [the American College of Life Underwriters, Incorporated] The American College;
- (5) Applicants for a general agent's, subagent's, or solicitor's license for any class of insurance, except life insurance, who hold the designation chartered property and casualty underwriter (C.P.C.U.) from the American Institute for Property and Liability Underwriters, Incorporated.

(b) Applicants who held a license on December 31, 1955 shall not, for the purpose of qualifying for the issuance or extension of such license after January 1, 1956, be required to take an examination. The applicants shall certify in writing to the commissioner, not later than three months after January 1, 1956, the names of all individuals who have exercised the powers conferred by the license for and on behalf of the applicant. Unless, upon order to show cause, the commissioner determines that any individual so certified did not in fact at any time prior to January 1, 1956 exercise the powers conferred by the license upon the applicant, the names of such individuals shall be accepted and such individuals shall not thereafter be required to take an examination to qualify for the issuance or extension of such license."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION [3]<sup>+</sup>. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

A Bill for an Act Relating to the Employees' Retirement System of the State of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-51, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-51 Membership service generally.** Membership service includes:

- (1) Service by an employee rendered since becoming a member;

<sup>+</sup>"3" inserted by revisor to correct omission.

- (2) Service rendered prior to becoming a member but (A) subsequent to January 1, 1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county;
- (3) Service as an employee of the federal government where the function carried on by said government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
- (4) Service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that (A) the employee was a member of the system immediately preceding the time he renders such service; (B) the employee reenters the service of the State or county within one year after termination of such service; and (C) the employee has, to the satisfaction of the board of trustees, waived his right to any credit under the Civil Service Retirement Act (5 USCA 2251) based upon such service; provided, further, that credit for such service shall not exceed eight years;
- (5) Service as an employee of the Hawaii territorial guard;
- (6) Service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay;
- (7) Service between the years 1941 and 1947 with federal defense agencies, where the employee was employed by the government before the war-time service, went into defense work at the direction of his employer, and returned to government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board of trustees;
- (8) Service, not exceeding four years, in the military service of the United States during the period 1941-1949 rendered by an employee who was employed by the Territory or county prior to his induction into the military and who subsequently returned to employment of the Territory or county following his discharge;
- (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u General Hospital, Puunene Hospital, Waimea Hospital, Waimea, Kauai, Haliimaile Dispensary, Paia Hospital [.] and Pioneer Mill Hospital.
- (10) Service rendered prior to becoming a member as a full-time sheriff or deputy sheriff in the office of the sheriff.

Membership service shall only be credited for any period for which the member makes the required contributions to the system."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

A Bill for an Act Relating to Liquor Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-31, Hawaii Revised Statutes, is amended by amending the first paragraph entitled "Class 1. Manufacturers' licenses." to read as follows:

"**Sec. 281-31 Licenses, classes.** Licenses may be granted by the liquor commission as follows:

Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Wine manufactured from grapes or other fruits grown in the State;
- (4) Alcohol;
- (5) Other specified liquor.

It shall be unlawful for any holder of a manufacturer's license to have any interest whatsoever in the license or licensed premises of any other licensee.

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

A Bill for an Act Relating to the Department of Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Purpose. The Government Organization Commission reviewed the problem of duplication of efforts by the State and counties in respect to housing inspection and enforcement. The Commission found that both the State Health Department and the building departments of the counties perform inspection of housing. Further, complaints involving the Landlord-Tenant Code relating to cleanliness are referred to the State Health Department. The State Health Department also issues permits for installation of air conditioning and ventilation in public buildings, as well as for septic tanks and cesspools.

The purpose of this Act is to authorize the State Health Department to delegate all housing inspection and enforcement functions, including the issuance of permits, to the various counties.



SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 321- Delegation to counties.** Any provision to the contrary notwithstanding, the department of health may, in adopting rules and regulations under sections 321-9, 10, and 11, delegate functions for inspection and enforcement of such rules, including the function of issuance of permits, certificates, or licenses, to the various counties. Such delegation of authority shall be in accordance with standards duly adopted by the department.”

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

ACT 27

S.B. NO. 2476-78

A Bill for an Act Relating to the Importation of Beer for Private Consumption.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-33, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 281-33 Special powers, privileges, and rights.** The following special powers, privileges, and rights are hereby granted, anything in this chapter to the contrary notwithstanding:

- (1) Any person arriving in the State may bring with him for private use and consumption and not for resale, any liquor not exceeding one gallon and two cases of beer not exceeding six gallons without securing a license;
- (2) Any religious organization may import or receive into the State sacramental wine for use in the religious rites of the religious organization without securing a license;
- (3) Any consul general, consul, or vice-consul of any foreign country may import or receive into the State, for private use and consumption, any liquor without securing a license.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

ACT 28

S.B. NO. 2490-78

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*Edited accordingly.

SECTION 1. Section 431-678, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 431-678 Priority of claims for compensation.** (a) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under sections 431-651 to 431-686, but not exceeding \$300 for each such employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the insurance commissioner may be paid as soon as practicable after the proceeding has been commenced; except, that at all times the commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of the administration.

(b) Such priority shall be in lieu of any other similar priority which may be authorized by law as to the wages or compensation of the employees.

(c) The priorities of distribution of a liquidation proceeding shall be in the following order:

- (1) Expenses of administration.
- (2) Compensation of employees as provided in subsections (a) and (b) of this section.
- (3) Federal, State, and local taxes.
- (4) Claims arising out of and within the coverage of insurance policies issued by the insurer being liquidated for losses incurred, including:
  - (i) Third party claims and claims for unearned premiums.
  - (ii) Claims presented by the Hawaii Insurance Guaranty Association which represent “covered claims” as defined in section 431D-5(3) and which have been paid by such association.
  - (iii) Claims similar to those described in part (ii) of this subsection as presented by similar guaranty associations of other states.
- (5) All other claims.”

SECTION 2. Chapter 431D, Hawaii Revised Statutes, is amended by amending† a new section to be designated as section 431D-8.1 and read as follows:

**“Sec. 431D- Disbursement of assets following final determination of insolvency and order of liquidation.** (a) Within 120 days of a final determination of insolvency of an insurer and order of liquidation by a court of competent jurisdiction of this State, the receiver shall make applications to the court for approval of a proposal to disburse assets out of such insurer’s marshalled assets from time to time as such assets become available to the Hawaii Insurance Guaranty Association. (The Hawaii Insurance Guaranty Association and any entity or person performing a similar function in other states shall in this section be referred to collectively as the “associations”).

(b) Such proposal shall at least include provisions for:

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†So in original.

- (1) reserving amounts for the payment of claims falling within the priorities established in section 431.678 as now or hereafter amended;
- (2) disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available;
- (3) equitable allocation of disbursements to each of the associations entitled thereto;
- (4) the securing by the receiver, from each of the associations entitled to disbursements pursuant to this section, of an agreement to return to the receiver such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in section 431.678 hereafter amended in accordance with such priorities. No bond shall be required of any such association; and
- (5) a full report to be made by the association to the receiver accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on such assets, and any other matters as the court may direct.

(c) The receiver's proposal shall provide for the disbursements to the association in amounts estimated at least equal to the claim payments made or to be made thereby for which such associations could assert a claim against the receiver, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such claim payments made or to be made by the associations, then disbursements shall be in the amount of available assets.

(d) Notice of such application shall be given to the associations in and to the commissioners or directors of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, at least 30 days prior to submission of such application to the court."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

## ACT 29

S.B. NO. 2602-78

A Bill for an Act Relating to Inactive Student Activity Accounts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Purpose. Secondary schools presently lack statutory authority to transfer funds in the inactive accounts of the graduated classes to the non-appropriated local school fund account, where they may be spent for the general purpose of the school. In the absence of statutory authority, secondary

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\*Edited accordingly.

## ACT 30

schools are now required to maintain the graduated classes' funds forever, unless the graduating class donates, in writing, such funds to the school.

SECTION 2. Chapter 296, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 296- Inactive student activity accounts.** Student activity funds, which are left in the school for a period of five years after the graduation of the class, shall be deposited into the non-appropriated local school fund account, unless the graduating class donates, in writing, such funds to the school within the five-year period."

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

## ACT 30

H.B. NO. 2593-78

A Bill for an Act Relating to Bicycle Rules of the Road.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and intent. The legislature finds that improvements in safety and health factors affecting bicyclists are sufficient reasons to amend the traffic laws and rules of the road. The legislature concurs with the department of transportation's Bikeplan Hawaii that two advantages can be gained if bicyclists are permitted to operate on the left side of one-way streets. A bicyclist's visibility would be increased since the bicyclist would be on the same side as vehicle drivers. A bicyclist's exposure to emissions and air turbulence from buses and large trucks would be lessened. These advantages would increase the safety and health of bicyclists without impeding motor vehicle traffic. The legislature further finds that the orderly and safe operation of bicycles requires the uniform application of certain rules of the road on nonroadway as well as roadway portions of public streets and highways.

It is therefore the intent of the legislature to amend Hawaii's traffic laws to permit bicyclists to ride on the left side of one-way streets, and to regulate the operation of bicycles on highway shoulders, bicycle lanes, and bicycle paths physically separate from the roadway.

SECTION 2. Section 291C-145, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-145 Riding on roadways and bikeways.** (a) Every person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at such time shall ride as near to the right-

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\*Edited accordingly.

hand curb or edge of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; except under any of the following situations:

- (1) When preparing for a left turn at an intersection or into a private road or driveway, except where prohibited by official traffic control devices;
- (2) When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or
- (3) When a roadway is designated and signposted to carry traffic in one direction only and has two or more marked traffic lanes, a person operating a bicycle may ride as near to the left-hand curb or edge of such roadway as practicable.

(b) Persons riding bicycles upon a roadway shall ride in single file; provided that upon bicycle lanes and bicycle paths, riding two abreast shall be permitted when such lane or path is of sufficient width to allow riding two abreast unless otherwise prohibited by rule or ordinance adopted by the director of transportation or by the counties.

(c) Whenever a usable bicycle lane has been provided on a highway, any person operating a bicycle at a speed less than the normal speed of traffic moving in the same direction at such time shall ride within such bicycle lane, except that such person may move out of the lane under any of the following situations:

- (1) When overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane;
- (2) When preparing for a left turn at an intersection or into a private road or driveway; or
- (3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

(d) No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving appropriate signal in the event that any vehicle may be affected by the movement.

(e) No person shall operate or ride a bicycle within a bicycle lane in any direction except that permitted of vehicular traffic traveling on the same side of the highway. Upon all bicycle paths of sufficient width and providing for two-way movement of bicycle traffic, bicycles proceeding in opposite directions shall pass each other to the right.

(f) No person shall ride a bicycle equipped with a motor on any sidewalk. The counties may, by ordinance, post bicycle lanes and bicycle paths to prevent persons riding a bicycle equipped with a motor from using them."

SECTION 3. Section 291C-123, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-123 Driving upon bikeway or sidewalk.** No person shall drive any vehicle upon a bicycle lane, bicycle path, sidewalk, or sidewalk area except

## ACT 31

upon a permanent or authorized temporary driveway; provided that any vehicle may be driven in a bicycle lane or bicycle path as applicable if:

- (1) It is in the process of executing a legal turn, lane change, or parking maneuver;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

## ACT 31

H.B. NO. 2793-78

A Bill for an Act Relating to the Regulation of the Sale of Nonchemical Pest Control Devices in the State of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in the past few years there has been an abundance of nonchemical pest control devices sold in the State. Many of these devices have not been objectively tested to determine whether the device is effective or poses actual or potential threats to human health and safety.

The purpose of this Act is to protect the public by requiring the manufacturers of such devices or their representatives to submit efficacy data for examination and review; provided such examination and review may require the furnishing of specimen material or samples as may be necessary for efficacy and safety determination and approval prior to the authorization for the sale of such devices in the State.

SECTION 2. Chapter 460J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 460J- Nonchemical pest control devices efficacy and safety data examination and testing; approval prior to sale of devices in the State.** (a) All manufacturers or their representatives intending to sell a nonchemical pest control device in the State shall submit efficacy and safety data prior to sale to the department of agriculture; provided such requirement for submission of efficacy

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\*Edited accordingly.

and safety data may include the furnishing of specimen devices or samples. The department or its designated representative shall conduct such examination and testing as may be necessary to ascertain the reliability, efficacy and safety data and actual or potential adverse effects upon human health and safety of such device. The department shall adopt and enforce rules pursuant to chapter 91 to carry out this section.

(b) Any person including a wholesaler, retailer, or pest control operator who sells a device which has not been approved for sale in the State as provided in subsection (a) shall be subject to penalty as provided in section 460J-27.

SECTION [3.]† 460J-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

- “( ) “Efficacy and safety data” means data from experiments conducted by qualified scientists to determine the efficacy and safety of a non-chemical pest control device.
- ( ) “Nonchemical pest control device” means any device that purports to eliminate or control pests by attracting, repelling, or killing pests without the use of chemicals. Such a device shall include, but not be limited to, electromagnetic waves, sound and ultrasound, cosmic, and other waves.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

ACT 32

H.B. NO. 2942-78

A Bill for an Act Relating to Truck-Tractors and Semitrailers Used for Agricultural Purposes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-34, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Length:

- (1) No single motor vehicle or other power vehicle having a total overall length greater than forty feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided.
- (2) No truck-tractor and semitrailer having a total overall length greater than fifty-five feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter

†Bracketed matter added by Revisor to supply omission.

\*Edited accordingly.

provided[.]; provided that for truck-tractors and semitrailers used for agricultural purposes, the total combined length of the truck-tractor and semitrailer shall not exceed sixty-five feet in length; provided further that the length of the semitrailer shall not exceed forty-five feet in length.

- (3) No combination of motor vehicles or other power vehicles coupled together shall consist of more than two units and no such combination of vehicles having a total overall length greater than sixty-five feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided. A truck-tractor and semitrailer shall be regarded as a single unit when determining the number of units in a combination.
- (4) No motor vehicle, self-propelled construction or farm equipment, trailer or semitrailer shall be operated upon any public road, street, or highway within the State if it is carrying or otherwise has projecting to the front or rear, a load, boom, mast, or other projecting structure or attachment unless:
  - (A) With respect to self-propelled construction or farm equipment,
    - (i) The length of the equipment measured on a horizontal axis, including the projection, is less than [40] forty feet;
    - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
    - (iii) The projection does not obstruct the driver's vision;
    - (iv) The projection does not impair the driver's ability to control the equipment;
    - (v) The projection beyond the front tires is at least seven feet above the roadway surface;
    - (vi) The projection does not extend more than four feet past the extremity of the piece of equipment, or if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection; or
  - (B) With respect to a motor vehicle, or a motor vehicle with attached trailer or semitrailer,
    - (i) The overall length of a motor vehicle including the projection, is less than [40] forty feet or the overall length of the motor vehicle with attached trailer or semitrailer, including the projection, is less than [55] fifty-five feet;
    - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
    - (iii) The projection does not obstruct the driver's vision;
    - (iv) The projection does not impair the driver's ability to control the equipment;
    - (v) The projection beyond the front tires is at least seven feet above the roadway surface;
    - (vi) The projection does not extend more than four feet past the extremity of the trailer or semitrailer, or, if it extends more



than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection.

- (5) The foregoing limitations upon length shall not apply to vehicles transporting pipe, poles, timbers, reinforcing steel, structural steel, or other objects of a structural nature which cannot be readily dismembered; provided[, ] that when transported by night every such vehicle shall be equipped with a sufficient number of clearance lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1978.)

ACT 33

S.B. NO. 1658-78

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) All no-fault benefits shall be paid secondarily and net of any benefits a person is entitled to receive because of the accidental harm from social security laws or workers' compensation laws; provided however, that this section shall be inapplicable to benefits payable to a surviving spouse and any surviving dependent as provided under section 294-4. If the person does not collect such benefits under such laws by reason of the contest of his right to so collect by the person or organization responsible for payment thereof, the injured person, if otherwise eligible, shall, nevertheless, be entitled to receive no-fault benefits and upon payment thereof the no-fault insurer shall be subrogated to the injured person's rights to collect such benefits."

SECTION 2. Section 294-23, Hawaii Revised Statutes, is amended to read:

**"Sec. 294-23 Joint underwriting plan assigned claims, eligibility.** (a) Each person sustaining accidental harm, or his legal representative, may, except as provided in subsection (b) of this section, obtain the no-fault benefits through the plan whenever:

- (1) No insurance benefits under no-fault policies are applicable to the accidental harm; or
- (2) No such insurance benefits applicable to the accidental harm can be identified; or

- (3) The only identifiable insurance benefits under no-fault policies applicable to the accidental harm will not be paid in full because of financial inability of one or more self-insurers or insurers to fulfill their obligations.
- (b) A person, or his legal representative, shall be disqualified from receiving benefits through the plan, if:
  - (1) Such person is disqualified for criminal conduct under section 294-5(c) from receiving the no-fault benefits, or
  - (2) Such person was:
    - (A) The owner or registrant of an uninsured or insured motor vehicle at the time of its involvement in the accident out of which such person's accidental harm arose, or
    - (B) The operator or any passenger of such a vehicle at such time with reason to believe that such vehicle was an uninsured motor vehicle.
- (c) Any person eligible for benefits under this section, or who becomes eligible to file a claim or an action against the mandatory public liability or property damage policies, shall, upon the bureau's determination of such eligibility, be entitled to:
  - (1) The full no-fault benefits as if such victim had been covered as an insured at the time of the accident producing the accidental harm.
  - (2) The rights of claim and action against the insurer, assigned under section 294-20(b), with reference to the mandatory public liability policy for accidental harm, and with reference to the mandatory property damage policy for property damage sustained.

Any claims of an eligible assigned claimant against either mandatory public liability or property damage policies, or the basic no-fault policy, shall be filed with the insurer assigned and shall be subject to all applicable conditions and provisions of parts I and III of this chapter, except that the date of notification of the assignment shall, where applicable, be substituted for the date of the accident for purposes of section 294-36.

(d) By regulation, promulgated by the commissioner, each self-insurer shall be assessed its equitable proration of all costs and claims paid under this section, annually. No claim shall be assigned to any self-insurer for servicing. Proration for insurers and self-insurers shall be founded upon a pro rata distribution for each premium dollar actually or theoretically received. Self-insurers shall be assessed that prorated amount based upon the total premium cost for the coverage and vehicles stated in its certificate of self-insurance, as if the self-insurer had sold such coverage at the premium rates applicable under section 294-24.

(e) If a person qualifies for assignment or benefits under this section, the joint underwriting plan or any insurer to whom the claim is assigned by the plan shall be subrogated to the rights of such person and shall have a claim for relief or a cause of action, separate from that of such persons, to the extent that:

- (1) It has paid no-fault benefits; and
- (2) Elements of damage compensated for by the plan with reference to the mandatory public liability policy for accidental harm and with reference to the mandatory property damage policy for property damage

sustained are paid.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1978.)

ACT 34

S.B. NO. 1673-78

A Bill for an Act Relating to Exempting Items Purchased for Resale by the University of Hawaii Bookstores from the Requirements of Public Advertisement for Sealed Tenders.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-22, Hawaii Revised Statutes, is amended to read:

**“Sec. 103-22 Advertisement for bids required; exceptions.** No expenditure of public money, except salaries or pay of officers or employees, or permanent settlements, subsidies or other claims or objects for which a fixed sum must be paid by law, or for other purposes which do not admit of competition, or for the purchase of materials or supplies from any other department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments, other than University of Hawaii bookstores, or for the performance of public work or contracts by any other such department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments, where the sum to be expended is \$8,000 or more shall be made except under contract let after public advertisement for sealed tenders, in the manner provided by law. In all cases of expenditures of public money that is more than \$4,000 but less than \$8,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State; provided that in the case of public works or repairs and maintenance of buildings, roads, and other site improvements where the expenditure is more than \$4,000 but less than \$15,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State. No expenditures for public purposes shall be so divided or parceled as to defeat or evade this section.”

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 103- University of Hawaii bookstores; exception.** Notwithstanding any other provision, purchases of materials, supplies, and books by University of Hawaii bookstores for resale shall be exempt from public bidding requirements of this chapter.”

\*Edited accordingly.

## ACT 35

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1978.)

## ACT 35

S.B. NO. 1690-78

A Bill for an Act Relating to Use of Credit Cards.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 601, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 601- Use of credit cards to pay for court costs, fees, expenses, and other charges.** All costs, fees, bail forfeitures, fines, expenses and other charges which are due and owing to the courts may be paid by use of credit cards acceptable to the administrative director of the courts. A service fee may be paid by the courts for the use of a credit card service."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1978.)

## ACT 36

S.B. NO. 1773-78

A Bill for an Act Relating to Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"Sec. 46- Development of alternative energy resources.** Each of the counties may participate in the development of alternative energy resources defined as geothermal, solar, wind, ocean power, biomass and solid wastes in joint venture with an end user or public utility pursuant to a plan for the direct utilization of the energy sources by an end user or public utility; provided that should a joint-venture partner not be available the counties may proceed with the development of alternate energy resources for their own consumption or for the furtherance of a plan for direct utilization by an end user or public utility."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1978.)

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\*Edited accordingly.

ACT 37

S.B. NO. 1894-78

A Bill for an Act Relating to the Hawaii Meat Inspection Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 159-29, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This chapter requiring inspection of meat or meat products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale at the establishment in normal retail quantities or service of meat or meat products to consumers, provided that the preparation, handling, and storage of meat or meat products is conducted in accordance with the sanitary conditions as the board may prescribe.

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1978.)

ACT 38

S.B. NO. 2614-78

A Bill for an Act Relating to the Exemption of the Executive Secretary of the Commission on Population and the Hawaiian Future from the Provisions of Chapters 76 and 77, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 224-3, Hawaii Revised Statutes, is amended to read:

“**Sec. 224-3 Executive secretary.** The commission shall appoint and fix the compensation of an executive secretary, who shall be exempt from chapters 76 and 77, and may employ such other personnel as it deems advisable to effectuate the purposes of this chapter, pursuant to the provisions of chapters 76 and 77.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This act shall take effect upon its approval.

(Approved April 18, 1978.)

ACT 39

H.B. NO. 2592-78

A Bill for an Act Relating to Bicycles.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

## ACT 39

SECTION 1. Section 291C-1, Hawaii Revised Statutes, is amended by adding four definitions to be appropriately inserted and to read as follows:

- “( ) “Bicycle lane” means that portion of any highway which has been set aside for the preferential or exclusive use of bicycles.
- ( ) “Bicycle path” means any facility set aside for the preferential or exclusive use of bicycles and physically separated from a highway.
- ( ) “Bicycle route” means any highway that is designated to be shared by bicycles and pedestrians or motor vehicles, or both.
- ( ) “Bikeway” means a bicycle lane, bicycle path, or bicycle route, or any traffic control device, shelter, parking facility, or other support facility to serve bicycles and persons using bicycles.”

SECTION 2. Section 291C-38, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Longitudinal traffic lane markings shall have the following applications:

- (1) A broken white line is used to indicate the edge of the traffic lane where travel is permitted in the same direction on both sides of the line and may be crossed by vehicular traffic when the crossing can be made with safety.
- (2) A broken yellow line is used to indicate the left edge of a traffic lane where traffic on the other side of the line moves in the opposite direction and may be crossed by vehicular traffic only when overtaking or passing a vehicle proceeding in the same direction or when executing a left turn and then only if the movement can be made with safety and does not interfere with traffic moving in the opposite direction.
- (3) A solid white line is used to indicate the edge of the traffic lane where travel in the same direction is permitted on both sides of the line but where movement from lane to lane is considered to be hazardous. A solid white line may be crossed only in unusual circumstances and then only with great care. A doublewidth solid white line is used to emphasize a greater degree of hazard.
- (4) A solid white line is also used to indicate the right edge of the pavement.
- (5) A double solid white line is used to indicate the edges of traffic lanes where travel in the same direction is permitted on both sides of the double line but where movement from lane to lane is considered to be dangerous. The crossing of a double solid white line by vehicular traffic is prohibited.
- (6) A solid yellow line is used to indicate the left edge of a traffic lane where overtaking and passing on the left is prohibited. The crossing of a solid yellow line by vehicular traffic is prohibited except when the crossing is part of a left turn movement.
- (7) A solid yellow line is also used to indicate the left edge of each roadway of a divided street or highway.
- (8) A double solid yellow line is used to indicate the separation between lanes of traffic moving in opposite directions. The crossing of a double

solid yellow line by vehicular traffic is prohibited except when the crossing is part of a left turn movement.

- (9) A double line consisting of a broken yellow line and a solid yellow line is used to indicate a separation between lanes of traffic moving in opposite directions and vehicular traffic adjacent to the broken line is permitted to overtake or pass if the movement can be made with safety and does not interfere with traffic moving in the opposite direction. The crossing of this double line by vehicular traffic adjacent to the solid line is prohibited except when the crossing is part of a left turn movement.
- (10) A double broken yellow line is used to indicate the edge of a reversible traffic lane where the direction of the vehicular traffic may be changed from time to time.
- (11) A dotted line is used to indicate the extension of a line through an intersection or interchange. It shall be the same color as the line it extends. The crossing of a dotted line by vehicular traffic is subject to the same prohibitions and exceptions as are applicable to the line it extends.
- (12) A solid white line when supplemented by official signs or pavement markings, is used to indicate the separation of bicycle lanes from lanes of vehicular traffic flowing in the same direction. Except as allowed under section 291C-123, vehicles other than bicycles shall be prohibited from operating in a bicycle lane."

SECTION 3. Section 291C-141, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any bicycle path set aside for the preferential or exclusive use of bicycles subject to those exceptions stated herein."

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved April 18, 1978.)

ACT 40

H.B. NO. 3041-78

A Bill for an Act Relating to the Department of Social Services and Housing: Making Supplementary Appropriations Out of General Revenues to Cover Certain Deficiencies for the Fiscal Year Ending June 30, 1978.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** Act 10, Session Laws of Hawaii 1977, First Special Session, appropriated certain designated sums to the depart-

\*Edited accordingly.

## ACT 41

ment of social services and housing to provide payments for medical services and financial assistance to indigents and medical indigents under the department's economic assistance programs for the fiscal period beginning July 1, 1977 and ending June 30, 1978.

To the best of its ability, the department is trying to operate within the appropriated amounts for the fiscal year 1977-78. However, the department is providing for actual caseloads, patient loads and payment levels in excess of the estimates specified in Act 10, Session Laws of Hawaii 1977, First Special Session. Furthermore, higher costs for patient care are being realized. The amounts appropriated by Act 10 are insufficient to carry out the purposes of the economic assistance programs for the entire 1977-78 fiscal year at the present level of service.

To prevent a breakdown in services, it is urgent that additional monies be appropriated. Accordingly, the governor has recommended this bill for immediate passage.

**SECTION 2. Appropriation.** In addition to appropriations made for the same programs by any other act, the following sums, or so much thereof as may be necessary, are hereby appropriated to the department of social services and housing for the fiscal year 1977-78, for the following programs from the sources of funding specified below:

SOC 201	\$2,202,480	A
	4,129,385	N
SOC 202	1,313,618	A
SOC 204	1,845,101	A
SOC 230	7,366,606	A
	4,532,445	N

The letter symbol following each appropriation indicates the source of funding and has the meaning set forth in Act 10, Session Laws of Hawaii 1977, First Special Session.

**SECTION 3. Lapsing of appropriation.** All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1978, shall lapse into the general fund of the State.

**SECTION 4. Effective date.** This Act shall take effect upon its approval.

(Approved April 25, 1978.)

## ACT 41

S.B. NO. 2302-78

A Bill for an Act Relating to Bonds Issued by the Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 47-7, Hawaii Revised Statutes, is hereby amended to read as follows:



**“§47-7 Issuance, interest rate, denominations, maturities, places payable, registration, redemption, medium of payment, sale, or other disposal.** The director of finance of the county may, upon authorization of its governing body, issue from time to time and in accordance with the provisions of this chapter, bonds of the county authorized for issuance by the governing body thereof. All bonds issued under authority of this chapter: shall bear interest payable semi-annually at a coupon or stated rate or rates not exceeding eight per centum per annum; provided that in any county with a population in excess of 100,000 the rate or rates shall not exceed seven per centum per annum; if for a term exceeding one year, shall be in serial form maturing in substantially equal installments of principal, or maturing in substantially equal installments of both principal and interest, the first installment of principal to mature not later than five years from the date of issue of such series and the last installment not later than thirty-five years from the date of such issue; may be payable as to both principal and interest at places within and without the State; may be issued in coupon form without privilege of registration or registrable as to principal only or as to both principal and interest or in fully registrable form; may be made redeemable at any time or times prior to their stated maturities at prices not exceeding one-hundred four per cent of the par value thereof; and shall be payable, as to principal, premium, if any, and interest, in any coin or currency of the United States which at the time of payment is legal tender for public and private debts. Unless the governing body shall itself perform the actions, the director of finance of each county, from time to time and without further authorization of the governing body, shall determine the form, date, denominations, and maturities of the bonds theretofore authorized by the governing body to be issued under the authority of this chapter, the place or places within or without the State at which the principal and interest of the bonds or any of them shall be payable and at which the bonds may be registered, and the time or times, prices, and method of their redemption, and the basis of award of such bonds, and shall offer for sale and sell the whole or any part of any issue of the bonds. The bonds shall be sold for not less than their par value, and shall be sold by means of public advertisement for tenders, either (A) with the interest rate or rates to be borne by the bonds having theretofore been fixed by the governing body, in which event the bonds shall be sold to the bidder offering the highest price therefor, or (B) with the interest rate or rates to be borne by the bonds to be specified by the bidders therefor, in which event the bonds shall be sold in accordance with the provisions of the following sentence. The bonds shall be sold on one or the other of the following bases: (1) to the bidder offering to purchase the bonds at the lowest interest cost, such interest cost for the purpose of this clause being the figure obtained by adding together the amounts of interest payable on the bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder, or (2) to the bidder offering to purchase the bonds at the lowest interest cost, such interest cost for the purpose of this clause being the rate obtained by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the principal and interest payments on the bonds from the dates of payment thereof to the date of the bonds and to the price bid (the price bid for the purpose of this clause shall not include

the amount of interest accrued on the bonds from their date to the date of delivery and payment therefor); provided that in any case the right shall be reserved to reject any and all bids and waive any irregularity or informality in any bid. Bonds offered for sale without a specified rate or rates of interest shall, without further action of the governing body, bear interest at the rate or rates specified by the successful bidder therefor. The advertisement for tenders required by this section shall be published at least once and at least five days prior to the date of the sale in a newspaper circulating in the County and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall set forth therein the basis to be used in determining the successful bidder. Notwithstanding the foregoing provisions of this section as to public sale, any bonds authorized pursuant to this chapter may, with the approval of the governing body, be sold by the director of finance at private sale to the United States, the State, or any board, agency or instrumentality of either thereof, or may, with the approval of the governing body, be deposited by the director of finance with and pledged to, or be otherwise disposed of to any board, agency, or instrumentality of the State or of the United States government to secure the repayment of or an actual payment of, any loans or advances made or to be made, under the authority of an act or acts of the legislature of Hawaii or of the Congress of the United States authorizing the loans or advances by the board, agency, or instrumentality to the county for the construction in whole or in part of any public improvement, the cost of which or any part thereof, would be payable out of the proceeds of the bonds, if sold."

SECTION 2. Section 47-52, Hawaii Revised Statutes, is hereby amended to read as follows:

**"§47-52 Refunding bonds authorized.** For the purpose of refunding the present and future bonded indebtedness of any county or any part or parts thereof, the director of finance of any county, upon authorization of the governing body, may from time to time issue general obligation refunding bonds of the county with which to pay, call, and redeem all or any part of the outstanding bonds of the county or any part or parts thereof, and may include various series and issues of the outstanding bonds in a single issue of refunding bonds and may include refunding bonds and bonds authorized under part I of this chapter, in a single issue of bonds. Refunding bonds may be issued to pay principal, any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The refunding bonds shall be issued in accordance with the provisions of Part I of this chapter, and all of the provisions of that chapter shall be applicable to such refunding bonds, except that refunding bonds issued hereunder may be sold at private sale at such price or prices as the governing body shall determine. The refunding bonds may be issued and delivered at or at any time before the maturity or redemption date of the bonds to be refunded that the director of finance, with the approval of the governing body determines to be in the best interest of the county. The refunding bonds shall be payable as to principal and interest dollar for dollar in any coin or currency of the United States which at the time of payment is legal tender for public and private debts, and shall be issued in accordance with the provisions of sections 47-5 to 47-18,

and all of the sections shall be applicable to the refunding bonds, except as aforesaid. Pending the time the proceeds derived from the sale of refunding bonds issued hereunder are required for the purposes for which they were issued, the director of finance may, upon authorization or approval of the governing body, invest the proceeds in obligations of, or obligations unconditionally guaranteed by, the United States or in savings accounts, time deposits, or certificates of deposit of any bank or trust company, within or without the State, to the extent that the savings accounts, time deposits, or certificates of deposit are collaterally secured by a pledge of obligations of, or obligations unconditionally guaranteed by, the United States, and to further secure the refunding bonds the director of finance may, upon authorization or approval of the governing body, enter into a contract with any bank or trust company, within or without the State, with respect to the safekeeping and application of the proceeds of the refunding bonds, and the safekeeping and application of the earnings on the investment, which contract shall become a part of the contract with the holders of the refunding bonds. The authorizations and approvals of the governing body required by this section may be given either by resolution or ordinance as the governing body may determine."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.  
(Approved May 5, 1978.)

ACT 42

S.B. NO. 2559-78

A Bill for an Act Relating to the Constitutional Convention.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 17, Session Laws of Hawaii First Special Session of 1977, is amended by amending Section 5 to read as follows:

"SECTION 5. **Salaries and allowances for delegates.** Delegates to the convention shall be entitled to a salary of \$1,000 a month, but not more than \$4,000 for the convention, plus allowance of \$10 per diem for Oahu delegates and \$30 per diem for neighbor island delegates. The salary payments to delegates shall be \$500 semi-monthly, the first payment for the period beginning May 21, 1978.

A State, county or Judiciary employee who is elected and who serves as a delegate, shall be granted a leave of absence without pay, or shall be entitled to take accumulated vacation leave as provided under chapter 79, Hawaii Revised Statutes, in lieu of the delegate's salary, from the day after the election until the convention adjourns. Any State, county or Judiciary employee who elects to take a leave of absence without pay shall be entitled to the delegate's salary provided hereunder, and shall not suffer any loss of seniority."

\*Edited accordingly.

## ACT 43

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1978.)

## ACT 43

S.B. NO. 2616-78

A Bill for an Act Relating to the Compact for Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 311-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 311-3 Hawaii education council.** There is established the Hawaii education council, hereinafter called the "council", composed of Hawaii's representatives to the commission, excepting the two members of the legislature, and provided that the governor and the head of a state agency or institution designated by the governor may designate substitutes to represent themselves, and ten other persons appointed by and to serve at the pleasure of the governor. The other persons shall be selected so as to be broadly representative of professional and lay interests within this State having the responsibilities for, knowledge with respect to, and interest in educational matters. The chairman shall be designated by the governor from among its members. The council shall meet on the call of its chairman or at the request of a majority of its members, but in any event the council shall meet not less than three times in each year. The council may consider any and all matters relating to public educational policy and any matters relating to recommendations of the Education Commission of the States and the activities of the members in representing this State thereon.

The selection and terms of the members of the commission and council shall be governed by the applicable provisions of section 26-34.

The council shall be placed within the department of the attorney general for administrative purposes only.

Members of the commission and council shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities."

SECTION 2. Material to be repealed is bracketed. New material is underscored. For printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1978.)

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\*Edited accordingly.

ACT 44

H.B. NO. 2305-78

A Bill for an Act Relating to Penalties for Credit Card Offenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 851-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person who is subject to the penalties of this subsection shall be guilty of a class C felony.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1978.)

ACT 45

H.B. NO. 2612-78

A Bill for an Act Relating to Banking.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 403-65, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 403-65 Directors meetings; examination of reports.** The board of directors of every bank shall hold a regular meeting at least once every month. At every such meeting the president or cashier shall submit a detailed report showing every loan and investment which exceeds in amount one-half of one percent of the capital and surplus of the bank or [\$50,000] \$100,000, whichever is the lesser, made during the preceding month or since the last report, also a separate report of all loans made to any officer, director, or employee (except such loans as are excluded from the requirements of approval by section 403-94), whether made direct or indirect or contingent, and the amount of security held therefor, if any, unless an advisory, discount, or executive committee, the majority of whom are not active officers of the bank, makes and files a written report stating that the committee has examined the reports and approved thereof, or stating its disapproval of any item appearing therein. The board of directors shall examine and pass upon such written report or the report of the advisory, discount, or executive committee and make the same a part of the record of their meeting by recording it in the minutes, and the record shall show their approval or disapproval.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

\*Edited accordingly.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1978.)

ACT 46

H.B. NO. 2895-78

A Bill for an Act Relating to Attachment and Execution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 651-61, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-61 Exemption, how claimed.** Where an officer is about to levy an attachment or execution on personal property, some of which is claimed as exempt, he shall demand of the defendant in writing that he make selection of such property as is exempt to him and in reference to which he has the right of selection and the defendant shall then and there make his selection; or, failing so to do, the officer shall make it for him, and any selection so made shall be conclusive on the defendant."

SECTION 2. Section 651-62, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-62 Indemnity bond if exemption claimed.** If any officer levies or is about to levy an attachment or execution on any property claimed as exempt under subpart C, and a doubt arises as to the liability of the property to be seized or sold, he may demand of the plaintiff a bond with sufficient sureties, payable to the officer, in a sufficient penalty, conditioned to indemnify and save harmless the officer against all damages, costs, and expenses which he may sustain in consequence of the seizure or sale of the property. If the bond is not given after twenty-four hours' notice in writing from the officer to the plaintiff, his agent, or attorney, if it is required, the officer may refuse to levy, or, having levied, may dismiss the levy. If the required bond is given, the officer shall seize and sell or dispose of the property according to the command of the process in his hands."

SECTION 3. Section 651-64, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-64 Seizure of exempt property.** Any defendant who claims that exempt property has been levied upon or seized may, with or without the giving of bond, apply to the court which issued the process for the release and return of the property. Upon the giving of bond in such sum and with such sureties as may be approved by the court, payable to the plaintiff in the attachment or execution and conditioned to have the property forthcoming to abide the court's determination of whether such property is exempt or for its value, and for the payment of costs, the court may order the property released and returned to the defendant forthwith. In such case the officer shall deliver the property to the defendant, and return the attachment or execution to the court whence it issued.

If it shall be found that the property is liable to attachment or execution, the same not being exempt, the plaintiff shall have judgment against the defen-

dant and his sureties on the bond for the value of the property and the costs of the proceeding including an attorney's fee, or for such costs and the reinstitution of the levy as of the date it was made, as the court shall order. But if it is found that the property is exempt, the defendant shall recover his property, damages, and costs including an attorney's fee to be fixed by the court."

SECTION 4. Section 651-68, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-68 Proceedings on execution; appraisers; expiration of lien, result.** When an execution for the enforcement of a judgment is levied upon real or personal property for which an exemption is authorized under subpart B or C, the judgment creditor may at any time within sixty days thereafter apply to the court for the appointment of a person or persons to appraise the value thereof. If such application is not made within sixty days after the levy of such execution the lien of the execution shall cease at the expiration of such period, and no execution based upon the same judgment shall thereafter be levied upon the real or personal property."

SECTION 5. Section 651-69, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-69 Application form contents.** The application shall be made upon a verified petition of the judgment creditor filed with the court showing:

- (1) The fact that an execution has been levied upon the real or personal property within sixty days prior to the filing of the petition.
- (2) A description of the real or personal property and the name of the claimant of an exemption under subpart B or C.
- (3) That the value of the real or personal property, over and above all liens and encumbrances thereon recorded prior to the lien under which sale is to be made, exceeds the amount of the real or personal property exemption, if any.
- (4) That no previous execution arising out of the same judgment has been levied upon the real or personal property."

SECTION 6. Section 651-91, Hawaii Revised Statutes, is amended by amending the definition of "head of a family" to read as follows:

"(1) "Head of a family" includes within its meaning:

- (A) A man and woman when married, except as provided in section 651-93.
- (B) Every individual who is residing on the real property and who has under his or her care or maintenance, either:
  - (i) His or her minor child, or minor grandchild, or the minor child of his or her deceased wife or husband;
  - (ii) A minor brother or sister, or the minor child of a deceased brother or sister;
  - (iii) A father, mother, grandfather, or grandmother;
  - (iv) The father, mother, grandfather, or grandmother of a deceased husband or wife;

- (v) An unmarried brother, sister, or any other of the relatives mentioned in this subparagraph, who have attained the age of majority.
- (C) Head of household as defined in section 2(b) of the Internal Revenue Code of 1954, as amended."

SECTION 7. Section 651-92, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-92 Real property exempt.** (a) Real property shall be exempt from attachment or execution as follows:

- (1) An interest in one parcel of real property in the State of Hawaii of a fair market value not exceeding \$30,000 owned by the defendant who is either the head of a family or an individual sixty-five years of age or older.
- (2) An interest in one parcel of real property in the State of Hawaii of a fair market value not exceeding \$20,000 owned by the defendant who is a person.

The fair market value of the interest exempted in paragraphs (1) or (2) shall be determined by appraisal and shall be an interest which is over and above all liens and encumbrances on the real property recorded prior to the lien under which attachment or execution is to be made. Not more than one exemption shall be claimed on any one parcel of real property even though more than one person residing on such real property may otherwise be entitled to an exemption.

Any claim of exemption under this section made before May 27, 1976, shall be deemed to be amended on May 27, 1976, by increasing the exemption to the amount permitted by this section on May 27, 1976, to the extent that such increase does not impair or defeat the right of any creditor who has executed upon the real property prior to May 27, 1976.

(b) No exemption authorized under this section shall apply to process arising from:

- (1) A lien as provided by section 507-42;
- (2) A lien or security interest created by a mortgage, security agreement, or other security instrument;
- (3) A tax lien in the name of the federal or state government;
- (4) An improvement district lien of any county of the State; or
- (5) A lien or encumbrance recorded against the real property prior to the acquisition of interest in and commencement of residence on such real property."

SECTION 8. Section 651-94, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-94 Proceedings where real property can be divided without material injury.** If the defendant is entitled to an exemption as provided in section 651-92, and from the appraiser's report, it appears to the judge that the real property claimed can be divided without material injury and subject to applicable state and county land use, zoning, and subdivision laws, he shall, by order, direct the appraisers to set off to the defendant so much of the real property, including



the residence and outbuildings, as will amount in value to the real property exemption and all liens and encumbrances and the execution may be enforced against the remainder of the real property subject to all liens and encumbrances recorded prior to the lien under which sale is made.

If a sale is made, the proceeds thereof shall be applied in the following order of priority: first, to the satisfaction of the execution costs, attorney's and appraiser's fees, and any other fees that may necessarily arise; second, to the satisfaction of the lien under which the sale is made; third, to the discharge of any subsequent liens and encumbrances according to their priority, and the balance, if any, to the defendant. The sale shall operate to extinguish subsequent liens and encumbrances on the remainder sold without forcing prior lienors and encumbrancers to exercise their right of recovery.

As used in this section, "material injury" means that the value of the real property left after the set off to the defendant is less than: all liens and encumbrances on the real property recorded prior to lien under which sale is made and an amount equal to estimated execution costs, attorney's and appraiser's fees, and other fees."

SECTION 9. Section 651-95, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-95 Sale where real property cannot be divided; application of proceeds.** If the defendant is entitled to an exemption as provided in section 651-92, and if, from the appraiser's report, it appears to the court that the real property claimed exceeds in value the amount of the real property exemption, all liens and encumbrances recorded prior to the judgment lien under which sale is to be made and an amount equal to estimated execution costs, attorney's and appraiser's fees, and other fees, and that it cannot be divided under section 651-94, he shall make an order directing its sale under the execution, subject to all liens and encumbrances recorded prior to the lien under which the sale is to be made.

If the sale is made, the proceeds thereof shall be applied in the following order of priority: first, to the defendant to the amount of the exemption; second, to the satisfaction of the execution costs, attorney's and appraiser's fees; and any other fees that may necessarily arise; third, to the satisfaction of the lien under which the sale is made; fourth, to the discharge of any subsequent liens and encumbrances according to their priority, and fifth, the balance, if any, to the defendant. The sale shall operate to extinguish subsequent liens and encumbrances without forcing prior lienors and encumbrancers to exercise their right of recovery."

SECTION 10. Section 651-96, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-96 After sale, money equal to real property exemption protected.** The money paid to the defendant as his exemption shall be entitled, for the period of six months thereafter, to the same protection against attachment and execution which section 651-92 gives to the real property. If the defendant, within such six month period, applies such proceeds to the purchase of real property, the date of such acquisition and commencement of residence for the purpose of section

651-92(b) (5), shall be considered to be the date of the acquisition of interest in and commencement of residence on the real property whose sale resulted in such proceeds.”

SECTION 11. Section 651-121, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 651-121 Certain personal property and insurance thereon, exempt.** The following described personal property of an individual up to the value set forth shall be exempt from attachment and execution as follows:

- (1) All necessary household furnishings and appliances, books and wearing apparel, ordinarily and reasonably necessary to, and personally used by a debtor or his family residing with him; and, in addition thereto, jewelry, watches, and items of personal adornment up to an aggregate cash value not exceeding \$1,000.
- (2) One motor vehicle up to a value of \$1,000 over and above all liens and encumbrances on the motor vehicle; provided that the value of the motor vehicle shall be measured by established wholesale used car prices customarily found in guides used by Hawaii motor vehicle dealers; or, if not listed in such guides, fair wholesale market value, with necessary adjustment for condition.
- (3) Any combination of the following: tools, implements, instruments, uniforms, furnishings, books, equipment, one commercial fishing boat and nets, one motor vehicle, and other personal property ordinarily and reasonably necessary to and personally owned and used by the debtor in the exercise of his trade, business, calling, or profession by which he earns his livelihood.
- (4) One parcel of land, not exceeding two hundred fifty square feet in size, niche or interment space owned, used, or occupied by any person, or by any person jointly with any other person or persons, in any graveyard, cemetery, or other place for the sole purpose of burying the dead, together with the railing or fencing enclosing the same, and all grave-stones, tombstones, monuments, and other appropriate improvements thereon erected.
- (5) The proceeds of insurance on, and the proceeds of the sale of, the property in this section mentioned, for the period of six months from the date the proceeds are received.
- (6) The wages, salaries, commissions, and all other compensation for personal services due to the debtor for services rendered during the thirty-one days before the date of the proceeding.”

SECTION 12. Section 651-122, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 651-122 Personal property not exempt.** No exemption for personal property authorized under section 651-121 shall apply to attachment or execution issued upon a judgment recovered for the price of such property, or upon a judgment of foreclosure of a security agreement or other security instrument encumbering personal property or for taxes or fines or any debt due the State.”

SECTION 13. Section 651-123, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 651-123 Application of proceeds of sale.** When the property thus taken is sold, which sale shall be subject to all prior liens and encumbrances, the proceeds of the sale thereof shall be applied in the following order of priority: first, to the defendant to the amount of the exemption, if any; second, to the satisfaction of the execution costs, attorney's and appraiser's fees, and any other fees that may necessarily arise; third, to the satisfaction of the lien under which the sale is made, fourth, to the discharge of any subsequent liens and encumbrances according to their priority, and fifth, the balance, if any, to the defendant. The sale shall operate to extinguish subsequent liens and encumbrances without forcing prior lienors and encumbrancers to their right of recovery."

SECTION 14. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 15. This Act shall take effect upon its approval except that Sections 11, 12 and 13 shall take effect on July 1, 1979.

(Approved May 5, 1978.)

ACT 47

H.B. NO. 3042-78

A Bill for an Act Relating to Appropriations for Witness Expense in Criminal Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 3 of Act 7, Special Session Laws of Hawaii 1977, is amended to read:

**"SECTION 3. Appropriation.** There is hereby appropriated out of the general fund of the State the sum of \$198,947 for the fiscal year 1977-78 and the sum of \$209,160 for the fiscal year 1978-79, or so much thereof as may be necessary to be expended by the department of budget and finance for the purposes of this Act."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1978.)

ACT 48

S.B. NO. 1533-78

A Bill for an Act Relating to In-Service Training Programs.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

**SECTION 1. Findings.** The legislature finds that staff development and in-service training programs have an important role in improving the internal operations of state and county government. Presently, three units of state government are involved in statewide and multi-department in-service training and staff development programs: the Hawaii institute for management and analysis in government of the department of budget and finance, the training and safety division of the department of personnel services, and the center for governmental development of the University of Hawaii.

The legislature finds that functional duplication exists among these three entities and that corrective actions are clearly indicated. Legislative concern has resulted in the adoption of three resolutions during the regular session of 1977 which requested the agencies and departments involved to review and evaluate their functions, responsibilities, and authorities, with specific attention directed toward elimination of duplicate programs and services. In response, the three agencies have submitted a report of their findings and recommendations, the key portions of which are summarized as follows:

- (1) Abolish the center for governmental development by repealing sections 81-1 through 81-5, Hawaii Revised Statutes. Center personnel should be allowed to stay with the university or relocate to the department of personnel services.
- (2) The department of personnel services should coordinate all training activities to insure that statewide employee development and training programs are efficient and effective. Within this framework, all training conducted by the department of personnel services and the institute for management and analysis in government (HIMAG) should be reviewed and coordinated to produce a viable and cohesive program designed to meet the needs of state employees.
- (3) The training and safety division of the department of personnel services and HIMAG should conduct a joint survey of statewide training needs. The department of personnel services should be responsible for coordinating the identification of statewide training needs.
- (4) A joint committee, made up of representatives of the training and safety division and HIMAG should be established to develop and manage an overall state training plan, coordinate future course offerings, and make recommendations for updating the state training manual.

Upon reviewing these recommendations and consulting with appropriate agency representatives, the legislature believes that the problems of duplication can be effectively curtailed by their implementation, resulting in an improved approach to the planning, coordination and delivery of staff development and related in-service training programs.

The purpose of this Act is to implement the intent of the foregoing recommendations.

**SECTION 2.** Chapter 81, Hawaii Revised Statutes, is amended as follows:

1. The title of chapter 81 is amended to read:

## **“CHAPTER 81 IN-SERVICE TRAINING PROGRAMS”**

2. Sections 81-1 to 81-5 are repealed.
3. Three new sections are added to read as follows:

**“Sec. 81-1 In-service training.** The director of personnel services shall initiate and provide suitable in-service training programs so that the quality of service rendered by government employees may be continually improved. The director shall be responsible for the coordination of the in-service training activities of all departments of government with related activities conducted by the University of Hawaii or the department of education.

**Sec. 81-2 Advisory committee on training established.** There is established an advisory committee on training to be made up of the director of personnel services; the director of finance; the director of the personnel system of the judiciary; the directors of the personnel departments of the several counties; the dean of continuing education; and three members from among the exclusive representatives of collective bargaining units 1, 2, 3, 4, 9, 10 and 13. The committee shall meet at least quarterly to recommend program plans and strategies for an overall state training plan, assist in coordinating course offerings, and make recommendations for updating the state training manual as necessary; provided that the authority of the committee shall be advisory as opposed to policy-making. The director of personnel services shall chair the committee.

**Sec. 81-3 Financing of operations.** Funds necessary for the development and operation of in-service training programs and activities shall be provided by general fund appropriations. Additional revenues may be provided through the charging of fees as may be necessary to conduct programs for participating agencies and shall be made part of a revolving fund.”

SECTION 3. Section 76-38, Hawaii Revised Statutes, is repealed.

SECTION 4. **Transfer of officers and employees.** All functions, powers, and duties relating to the center for governmental development, University of Hawaii, are transferred to the department of personnel services.

All officers and employees whose functions are transferred by this Act shall exercise the right to remain with the University of Hawaii or transfer to the department of personnel services and shall continue to perform their regular duties subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which the officer or employee is transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act

shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which the officer or employee is transferred or appointed.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the president of the University of Hawaii, the director of personnel services, or the governor.

**SECTION 5. Transfer of records and equipment.** All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personnel property heretofore made, used, acquired, or held by the center for governmental development, University of Hawaii shall be transferred to the department of personnel services subject to an agreement developed between the University of Hawaii and the department of personnel services and approved by the governor.

**SECTION 6.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 7.** This Act shall take effect on July 1, 1978.

(Approved May 8, 1978.)

**ACT 49**

S.B. NO. 1643-78

A Bill for an Act Relating to Certified Copies of Vital Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 338-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 338-13 Certified copies.** (a) Subject to the requirements of sections 338-16, 338-17, and 338-18, the department of health shall, upon request, furnish to any applicant a certified copy of any certificate, or the contents of any certificate, or any part thereof.

(b) Copies of the contents of any certificate on file in the department, certified by the department shall be considered for all purposes the same as the original, subject to the requirements of sections 338-16, 338-17, and 338-18.

(c) Copies may be made by photography, dry copy reproduction, typing, computer printout or other process approved by the director of health."

**SECTION 2.** Section 572-13, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

**"Sec. 572-13 Record of solemnization; marriages, reported by whom; certified copies.** (a) Record keeping. Every person authorized to solemnize marriage shall make and preserve a record of every marriage by him solemnized, comprising the names of the man and woman married, their place of residence, and the date of their marriage.

Every person authorized to solemnize marriage, who neglects to keep a record of any marriage by him solemnized shall be fined \$50.

(b) Marriages, reported by whom. It shall be the duty of every person, legally authorized to perform the marriage ceremony, to immediately report every marriage ceremony, performed by him, to the agent of the department of health in the district in which the marriage takes place setting forth all facts required to be stated in a standard certificate of marriage, the form and contents of which shall be prescribed by the department of health.

(c) Certified copies of certificate of marriage. The department of health shall deliver one certified copy of the certificate of marriage or the contents or any part thereof as provided in section 338-13 to the persons married. The certificate shall be prima facie evidence of the fact of marriage in any proceeding in any court.

The department of health shall upon request, furnish to any applicant additional certified copies of the certificate of marriage or any part thereof.

Copies of the contents of any certificate on file in the department, certified by the department shall be considered for all purposes the same as the original.

The department may prescribe reasonable fees, if any, to be paid for certified copies of certificates."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

ACT 50

S.B. NO. 1649-78

A Bill for an Act Relating to Vital Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 338-20, Hawaii Revised Statutes, is amended to read:

**"Sec. 338-20 Adoption.** (a) In case of the adoption of any person born in the State, the department of health, upon receipt of a properly certified copy of the adoption decree, or certified abstract thereof on a form approved by the department, shall prepare a supplementary certificate in the name of the adopted person, as fixed or changed by the decree, and seal and file the original certificate of birth with the certified copy attached thereto.

\*Edited accordingly.

## ACT 51

(b) Any certified copy of final decree of adoption, or abstract thereof, of persons born in the State, rendered by courts of other states and territories subject to the jurisdiction of the United States[, ] or courts of a foreign country, shall be considered properly certified when attested by the clerk of the court in which it was rendered with the seal of the court annexed, if there be a seal, together with a certificate of the presiding judge, chancellor, or magistrate that the attestation is in due form.

(c) If no original certificate of birth shall be on file with the department, the department may require such evidence as it deems necessary to establish the facts of birth before preparing a supplementary certificate in the new name of the adopted person; provided, that no such certificate shall be filed unless it shall be satisfactorily established that the adopted person was born in the State.

(d) Such sealed documents may be opened by the department only by an order of a court of record. Upon receipt of a certified copy of a court order setting aside a decree of adoption, the department shall restore the original certificate to its original place in the files."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

## ACT 51

S.B. NO. 1705-78

A Bill for an Act Relating to Jurisdictional Limit of the Clerk in Handling Small Estates of Persons Leaving No Known Relatives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:3-1212, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-1212 Estates of persons, leaving no known relatives.** Every coroner, or medical examiner, who is called to investigate the death of any person leaving no known spouse, issue, parent, grandparent, or issue of grandparents over the age of majority in the State, shall take immediate charge of such decedent's personal effects and if in the discretion of the coroner the value of such personal effect is in excess of \$100, forthwith deliver them to the clerk of the court of the judicial circuit in which such decedent died.

If after ten days no person appears, competent to initiate appropriate probate proceedings, the clerk shall administer the estate pursuant to the provisions of this part 12; provided, that if such decedent's estate be of a value exceeding [~~\$10,000~~] \$20,000, the clerk shall notify the judge of such circuit having charge of the probate calendar, and shall petition for the appointment of a personal representative of such estate other than the clerk. In the meantime the clerk may take such steps as may be appropriate to preserve and conserve the real and personal property of the decedent. All expenses in connection with the taking



possession, care and conservation of the property and with such proceedings shall be proper charges against the estate of the decedent. The corporation counsel or county attorney of each county shall advise, assist and represent as far as necessary any of such officers in the performance of any act or the institution or prosecution of any proceeding required by this section.

If such decedent's estate be of a value not exceeding \$100 and such decedent has no known relatives or whose relatives have failed to indicate any means of disposition of such estate, then the coroner, or medical examiner, having custody of such property shall dispose of such property in an appropriate manner, which may be any one of the following or a combination thereof:

- (1) Where the estate consists only of money and is not in excess of \$100 and expenditures have been made in connection with such death, to reimburse the appropriate city and/or county office which made the disbursement to defray said expenses;
- (2) Where the estate consists of cash and/or personal belongings of monetary value, not exceeding \$100, to liquidate said personal belongings and apply the proceeds, together with the cash, if the total does not exceed \$100, in accordance with paragraph 1 hereinabove set forth;
- (3) Where the assets in the estate are of no monetary value (unsaleable) and in his best judgment and discretion can be used by some charitable institution, to donate said assets to whatever charitable institution is willing and able to pick up the assets in question;
- (4) Where the assets have no value whatsoever or are in such condition that, in his best judgment and discretion, a charitable institution cannot use said properties, or will not receive said properties, to destroy the same in any manner he sees fit; and
- (5) If under paragraphs 1 and 2, there are assets remaining, then he shall forthwith forward the same to the state director of finance for disposition as provided in chapter 523."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall become effective upon its approval.

(Approved May 8, 1978.)

A Bill for an Act Relating to the Physician-Patient Privilege.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 621-20.5, Hawaii Revised Statutes is amended to read:

**"Sec. 621-20.5 Physician-patient privilege.** (a) No physician shall, without the consent of his patient, divulge in any civil action or proceeding, unless the sanity of the patient be the matter in dispute, any information which he may have

acquired in attending the patient, and which was necessary to enable him to prescribe or act for the patient; provided, that such consent shall be deemed to have been given to any physician (1) in every civil action which has been brought by any person for damages on account of personal injuries; and (2) in all cases in which a party to an action or proceeding offers himself or any physician or any person as a witness to testify to the physical or mental condition of the party.

(b) When the physical or mental condition (including the blood group) of a party to an action or proceeding is in controversy, he may be ordered to submit to a physical or mental examination by a physician as provided by the rules of court, and: (1) and information which may be acquired by such physician may be divulged without the consent of the person examined; (2) by requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition.

(c) Within the meaning of this section the term "party" includes a person in the custody or under the legal control of a party.

(d) The physician-patient privilege as provided herein shall be inapplicable in any administrative or judicial proceeding in which the competency, medical license, or practice of the physician is at issue, provided that identifying data of the patients whose records are admitted into evidence shall be kept confidential unless waived by the patient. The administrative agency, board, or commission may close the proceeding to the public to protect the confidentiality of the patient."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

ACT 53

S.B. NO. 2480-78

A Bill for an Act Relating to Rights of Subrogation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 294-7 Rights of subrogation.** Whenever any person, effects a tort liability recovery for accidental harm, whether by suit or settlement, which duplicates no-fault benefits already paid under the provisions of this chapter, the no-fault insurer shall be subrogated to fifty per cent of the no-fault benefits, up to the maximum limit specified by section 294-3(c), paid to such person."

\*Edited accordingly.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

ACT 54

H.B. NO. 225

A Bill for an Act Relating to the Hawaii Insurance Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-316, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-316 Fees.** (a) The insurance commissioner shall collect in advance the following fees:

- (1) Certificate of authority:
    - (A) Issuance . . . . . \$300
  - (2) Organization of domestic insurers and affiliated corporations:
    - (A) Application and all other papers required for issuance of solicitation permit, filing . . . . . \$500
    - (B) Issuance of solicitation permit . . . . . \$ 50
  - (3) General agent's license:
    - (A) Issuance, regular license . . . . . \$ 25
    - (B) Issuance, temporary license . . . . . \$ 25
  - (4) Subagent's license:
    - (A) Issuance, regular license . . . . . \$ 25
    - (B) Issuance, temporary license . . . . . \$ 25
  - (5) Nonresident agent's or broker's license:
    - (A) Issuance . . . . . \$ 20
  - (6) Solicitor's license:
    - (A) Issuance . . . . . \$ 20
  - (7) Independent adjuster's license:
    - (A) Issuance . . . . . \$ 20
  - (8) Public adjuster's license:
    - (A) Issuance . . . . . \$ 20
  - (9) Surplus line broker's license:
    - (A) Issuance . . . . . \$ 50
  - (10) Examination for license:
    - (A) For each examination, a fee to be established by the commissioner by rule adopted in accordance with chapter 91.
- (b) The fees for services of the department of regulatory agencies subsequent to the issuance of a certificate of authority or a license are as follows:
- (1) \$200 per year for all services (including extension of the certificate of authority) for an authorized insurer.

\*Edited accordingly.

- (2) \$25 per year for all services (including extension of the license) for a regularly licensed general agent.
- (3) \$25 per year for all services (including extension of the license) for a regularly licensed subagent.
- (4) \$15 per year for all services (including extension of the license) for a regularly licensed nonresident broker.
- (5) \$10 per year for all services (including extension of the license) for a regularly licensed solicitor.
- (6) \$15 per year for all services (including extension of the license) for a regularly licensed independent adjuster.
- (7) \$15 per year for all services (including extension of the license) for a regularly licensed public adjuster.
- (8) \$15 per year for all services (including extension of the license) for a licensed surplus line broker.
- (9) The services referred to in items (1) to (8) of this subsection (b) shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the department of regulatory agencies.

(c) The insurance commissioner shall calculate the fee, provided for in subsection (b) of this section, for the period of time which ends upon the next succeeding extension date of the certificate of authority determined pursuant to section 431-94 or the license determined pursuant to section 431-399, and shall so notify the holder of the certificate or the license by written notice at least thirty days prior to the extension date. The fee so calculated shall be due on the extension date. If the fee is not paid before or on the extension date, the fee will be increased by a penalty in the amount of fifty per cent of the fee. If the fee and the penalty are not paid within the thirty days immediately following the extension date, the commissioner may revoke the certificate of authority or license and shall not reissue the certificate of authority or license until the fee and penalty have been paid.

(d) All fees and penalties so calculated shall be remitted by the commissioner to the director of finance not later than the first business day following collection, and shall be placed to the credit of the general fund.

(e) In the event a certificate holder or a licensee voluntarily terminates his certificate of authority or license prior to the extension date thereof, and has paid in advance fees, provided for in subsection (b) of this section, which have not been earned by the department of regulatory agencies and which amount to more than \$5, the commissioner shall at the time of such termination, authorize a refund thereof out of the general funds of the State by submitting a voucher therefor to the comptroller."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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\*Edited accordingly.

SECTION 3. This Act shall take effect 90 days after approval.  
(Approved May 8, 1978.)

ACT 55

H.B. NO. 1923-78

A Bill for an Act Relating to the Unclaimed Property Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 523-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 523-17 Sale or other disposition of abandoned property.** (a) All abandoned property other than money delivered to the director under this chapter shall within one year after the delivery be sold by him to the highest bidder at public sale in whatever county in the State affords in his judgment the most favorable market for the property involved. The director may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under this section shall be preceded by a single publication of notice thereof, at least three weeks in advance of sale in a newspaper of general circulation in the county where the property is to be sold.

(c) The purchaser at any sale conducted by the director pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The director shall execute all documents necessary to complete the transfer of title.

(d) If the director determines that any property delivered to him pursuant to this chapter has no apparent commercial value, he may at any time thereafter destroy or otherwise dispose of the property, and in that event, no action or proceeding shall be brought or maintained against the State or any officer thereof on account of such destruction or disposition."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 8, 1978.)

ACT 56

H.B. NO. 1963-78

A Bill for an Act Relating to the Hawaii Insurance Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

SECTION 1. Section 431-573, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-573 Debtor groups.** The lives of a group of individuals may be insured under a policy issued to a creditor, who shall be deemed the policyholder, to insure the debtors of the creditor, subject to the following requirements:

- (1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term debtors shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors, or partnerships, if the business of the policyholder and of such affiliated corporations, proprietors, or partnerships, is under common control through stock ownership, contract, or otherwise.
- (2) The premiums for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premiums is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured.
- (4) The initial amount of credit life insurance shall not exceed the total amount repayable under the contract indebtedness or \$20,000, whichever is less. Where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater, except that if the sole purpose of the loan is to provide future advances to the debtor to meet education or education-related expenses of the debtor, the debtor's spouse, children or other dependents, the amount of insurance may equal, but may not exceed, the total amount of the described expenses forecast at the time of entry into the loan agreement with the creditor, less the amount of all repayments by the debtor. In the case of revolving loan or revolving charge accounts, the insurance shall at no time exceed the unpaid indebtedness.

- (5) The insurance shall be payable to the policyholder to reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment and, whenever the amount of insurance exceeds the unpaid indebtedness, any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.
- (6) Payment by the debtor insured under any such group life insurance contract of an amount not in excess of the premium charged and creditor by the insurer for such insurance pertaining to the debtor, shall not be deemed to constitute a charge upon a loan in violation of any banking or usury law or any law regulating installment sales."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

ACT 57

H.B. NO. 2098-78

A Bill for an Act Relating to General Obligation Bonds of the State.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 39-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 39-5 Interest rate, denominations, maturities, place payable, medium of payment, registration, redemption and other details of bonds.** All bonds issued under this part shall bear interest, payable annually or semi-annually, at a coupon or stated rate or rates not exceeding eight per cent a year; shall mature and be payable at such time or times from the date of the issue thereof as will comply with the provisions of the Constitution of the State; may be made payable as to both principal and interest at places within and without the State; may be issued in coupon form without privilege of registration or registrable as to principal only or as to both principal and interest or issued in fully registrable form; may be made registrable at places within and without the State; and may be made redeemable at any time or times prior to their stated maturities at prices not to exceed one hundred four per cent of the par value thereof. The director of finance shall determine the date, denomination or denominations, interest payment dates, maturities, places of payment, registration privileges and places of registration, redemption prices and time or times and method of redemption, and all other details of bonds issued under this part. The principal and interest of all bonds issued under this part shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts."

SECTION 2. Section 39-6, Hawaii Revised Statutes, is amended to read:

\*Edited accordingly.

**“Sec. 39-6 Sale of bonds.** The director of finance may make such arrangements as may be necessary or proper for the sale of each issue of bonds or part thereof as are issued under this part. With the approval of the governor, the bonds may be sold for not less than the par value thereof at private sale to the United States of America, or any board, agency, instrumentality or corporation thereof, to the employees retirement system of the State, to any political subdivision of the State, or to any board, agency, instrumentality, corporation or other governmental organization of the State or of any political subdivision of the State. Unless so sold at private sale such arrangements shall provide for the sale of the bonds by the director of finance, after public advertisement for tenders, either (A) with the interest rate or rates to be borne by such bonds having theretofore been fixed by the director with the approval of the governor, in which event the bonds shall be sold to the bidder offering the highest price therefor, or (B) at not less than the par value thereof, with the interest rate or rates to be borne by the bonds to be specified by the bidders therefor, in which event the bonds shall be sold in accordance with the provisions of the next following sentence. The bonds shall be sold on one or the other of the following bases as selected by the director of finance with the approval of the governor:

- (1) To the bidder offering to purchase the bonds at the lowest interest cost, such interest cost for the purpose of this clause being the figure obtained by adding together the amounts of interest payable on the bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder, or
- (2) To the bidder offering to purchase the bonds at the lowest interest cost, such interest cost for the purpose of this clause being, where the interest on the bonds is payable annually, the annual interest rate (compounded annually), or, where the interest on the bonds is payable semi-annually, the rate obtained by doubling the semi-annual interest rate (compounded semi-annually), necessary to discount the principal and interest payments on the bonds from the dates of payment thereof to the date of the bonds and to the price bid (the price bid for the purpose of this clause shall not include the amount of interest accrued on the bonds from their date to the date of delivery and payment therefor); provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

Bonds offered for sale without a specified rate or rates of interest shall, without further action, bear interest at the rate or rates specified by the successful bidder therefor. The advertisement for tenders required by this section shall be published at least once and at least five days prior to the date of such sale in a newspaper published and of general circulation in the State and in a financial newspaper or newspapers published in any of the cities of New York, Chicago or San Francisco, and shall set forth therein the basis to be used in determining the successful bidder.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the



brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

ACT 58

H.B. NO. 2570-78

A Bill for an Act Relating to Establishment of Veterans Cemeteries.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 363-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 363-4 Establishment of cemeteries on Hawaii, Kauai, Maui, Molokai and Lanai.** The department of land and natural resources shall set aside, or acquire by exchange, purchase, or condemnation, in the manner provided by law land suitable for the establishing of veterans cemeteries as follows: five acres on the island of Hawaii, four acres on the island of Maui, three acres on the island of Kauai, one acre on the island of Molokai, and one acre on the island of Lanai."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

ACT 59

H.B. NO. 3046-78

A Bill for an Act Relating to Examination Fees for Psychologist Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 465-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 465-12 Fees; disposition.** The fees required by this chapter, none of which are refundable, shall be as follows:

- |                                |      |
|--------------------------------|------|
| (1) Application fee .....      | \$10 |
| (2) Examination fee .....      | 75   |
| (3) Certificate fee.....       | 15   |
| (4) Renewal fee .....          | 30   |
| (5) Temporary permit fee ..... | 15   |

All fees shall be paid to the director of regulatory agencies and shall be deposited by him with the director of finance to the credit of the general fund."

\*Edited accordingly.

## ACT 60

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

## ACT 60

H.B. NO. 3060-78

A Bill for an Act Relating to the Medical Claim Conciliation Panels.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 671-11(b), Hawaii Revised Statutes, is amended to read as follows:

“(b) A medical claim conciliation panel shall be formed for each claim filed pursuant to section 671-12 and after each panel renders its decision or the claim is otherwise disposed of it shall be disbanded. Each medical claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the personal injury claims settlement process, one attorney licensed to practice in the courts of the State and experienced in trial practice, and one physician or surgeon licensed to practice under chapter 453. The chairperson shall be appointed by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of not less than 35 attorneys experienced in trial practice submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson from a list of not less than 35 physicians or surgeons submitted annually by the board of medical examiners.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall serve voluntarily and without compensation, but shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on the panel. Such costs shall be paid by the department of regulatory agencies.

The office and meeting space, secretarial and clerical assistance, office equipment and office supplies for the panel shall be furnished by the department of regulatory agencies.

The board of medical examiners shall prepare a list of physicians and surgeons along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, medical and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs shall be paid by the department of regulatory agencies.”

SECTION 2. Section 671-15(a), Hawaii Revised Statutes, is amended to read as follows:

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\*Edited accordingly.

“(a) Within 30 days after the completion of a hearing, the medical claim conciliation panel shall file a written advisory decision with the insurance commissioner who shall thereupon mail copies to all parties concerned, their counsel, and the representative of each health care provider’s liability insurance carrier authorized to act for such carrier, and the board of medical examiners. The panel shall decide the issue of liability and shall state its conclusions in substantially the following language: “We find the health care provider was actionably negligent in his or her care and treatment of the patient and we, therefore, find for the claimant”; or “We find the health care provider was not actionably negligent in his or her care and treatment of the patient and we, therefore, find for the health care provider”.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 8, 1978.)

ACT 61

S.B. NO. 1627-78

A Bill for an Act Making Authorizations for Collective Bargaining Cost Items for Employees in Bargaining Unit 11.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal year 1977-1978 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 11:

1977-78	Special Funds	\$ 34,240
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SECTION 2. There is hereby authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal year 1978-79 all collective bargaining cost items in the agreement with the exclusive bargaining representative of collective bargaining unit 11:

1978-79	Special Funds	\$132,082
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SECTION 3. Funds authorized by this Act shall be allotted by the Director of Finance for the purposes of this Act.

SECTION 4. Salary increases provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 5. Funds authorized by this Act not expended or encumbered

\*Edited accordingly.

## ACT 62

by September 30, 1978, and June 30, 1979 of the respective fiscal years shall lapse as of that date.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 10, 1978.)

## ACT 62

S.B. NO. 1654-78

A Bill for an Act Relating to Vacancies in Civil Service Positions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-23, Hawaii Revised Statutes, is amended to read:

**"Sec. 76-23 Filling vacancy.** All vacant civil service positions shall be filled in the manner prescribed in this part or in section 78-1.

Whenever there is a position to be filled, the appointing authority shall request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the recall lists, third the reemployment lists, and fourth the open-competitive lists; provided that laid-off regular employees shall be placed on an appropriate recall list; provided further that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. The director shall submit eligibles in the order that they appear on the eligible list before applying veterans preference; provided that veterans whose examination scores, after addition of applicable preference, are equal to or exceed the examination score of the fifth eligible certified, shall also be certified; and further provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to him as eligibles on an intradepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an intradepartmental promotional examination, in which case the director shall hold either an interdepartmental or an intradepartmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to him unless he finds no person acceptable to him on the list certified by the director, in which case he shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states his reasons in writing for rejecting each of the eligibles on the list previously certified to him by the director or, in case of the counties, by the civil

service commission. Eligible lists, other than the recall and reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in his department by promoting any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which he is to be promoted, and if the position is in the same or related series as the position held by the employee; provided, that when there is no material difference between the qualifications of the employees concerned, the employee with the longest government service shall receive first consideration for the promotion.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to his having completed one year of satisfactory service in the position to which he was so promoted, but he may at any time be eligible for a promotion to any position through examination.

An employee filling a permanent position temporarily vacant may be given a permanent appointment to the position if it later develops that the vacancy will be permanent, provided he was originally appointed from an appropriate eligible list and the appointing authority certifies that he has been performing the duties of the position in a satisfactory manner."

SECTION 2. Section 76-25, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-25 Reemployment and recall lists.** Whenever any employee who has been performing his duties in a satisfactory manner as shown by the records of the department of personnel services or the agency in which he has been employed, is demoted because of lack of work or lack of funds, has voluntarily accepted a position in a lower class, has resigned in good standing with the consent of the appointing authority, is retired for ordinary or accidental disability, or whenever his position has been reclassified to a lower class, he shall have the right to have his name placed on the appropriate reemployment list for a period of three years thereafter; provided that he files a written application for reemployment within three years after his termination and; provided further, that the period which an employee spends in a hospital, settlement or place within the State undergoing treatment for leprosy or tuberculosis, shall be excluded in computing the three year period. A person on a reemployment list shall be deemed eligible for certification to positions in the class in which he last held a permanent status.

Whenever a regular employee has been laid off because his position has been abolished due to lack of work or funds or because he was displaced by another employee because of reduction-in-force, the employee shall have the right to have his name placed on appropriate recall lists and be deemed eligible for certification to positions in the class in which he last held permanent status or in a related class in the same or lower grade for which he meets the qualification requirements.

The director of personnel services may remove the name of a person on any reemployment or recall list or refuse to certify his name on any list of eligibles, if he finds, after giving him notice and an opportunity to be heard, that

the person is no longer able to perform the necessary duties satisfactorily.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 10, 1978.)

ACT 63

S.B. NO. 36

A Bill for an Act Relating to Intergovernmental Transfer of Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 83, Hawaii Revised Statutes, is amended by amending the chapter title to read as follows:

**“CHAPTER 83  
TEMPORARY INTERGOVERNMENTAL ASSIGNMENT  
OF PUBLIC EMPLOYEES”**

SECTION 2. Section 83-2, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 83-2 Authority for temporary intergovernmental assignment of employees.** (a) Any unit of government of this State, whether a State or county department, agency, or instrumentality or the judiciary, may participate in any program of temporary intergovernmental assignment of employees as a sending or receiving agency.

(b) The period of each temporary intergovernmental assignment shall not exceed two years; provided that an extension of up to two additional years may be granted by the director of personnel services of the State, the director of civil service of a county or the administrative director of the courts for officers and employees of the respective jurisdictions. An agreement may be made between the sending and receiving agencies on matters relating to a temporary intergovernmental assignment, including but not limited to, the supervision of duties, the costs of salary and benefits, and travel and transportation expenses, none of which shall be contrary to the provisions of this chapter. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency. It shall not be mandatory for any employee to participate in any temporary intergovernmental assignment.

SECTION 3. Section 83-3, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 83-3 Rules.** The director of personnel services of the State, the civil service commission of a county and the administrative director of the courts shall

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\*Edited accordingly.

adopt, for its respective jurisdiction, rules pursuant to chapter 91 necessary for the purposes of this chapter."

SECTION 4. Chapter 83, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

**"Sec. 83- Status of employees of this State.** When any unit of government of this State is the sending agency, its employee on a temporary intergovernmental assignment may be considered to be (1) on detail to a regular work assignment or (2) on leave of absence without pay from his position.

- (1) Detail. An employee on detail shall remain an employee of the sending agency and, as such, be entitled to all rights and benefits.
- (2) Leave of absence without pay. An employee on leave of absence without pay shall be entitled to the same rights and benefits as any other employee of the sending agency on leave of absence without pay, and to the following:
  - (A) Credit for the period of temporary intergovernmental assignment towards his retirement;
  - (B) Continuance of health fund benefits and contributions if none are provided by the receiving agency;
  - (C) Supplemental pay equal to the difference between the sending and receiving agencies' rates of pay if the receiving agency's pay is less than what the employee would have received if he had continued in his regular position;
  - (D) Compensation for disability or death resulting from personal injury arising out of and in the course of the temporary intergovernmental assignment, as though he were an employee on detail from the sending agency, unless the employee, his estate or survivor elects, instead, to receive compensation from the receiving agency's program for such death or disability;
  - (E) Annual leave if the period of assignment is for one year or longer.

**Sec. 83- Status of employees of other governments.** When any unit of government of this State is the receiving agency, an employee of another government may be (1) considered to be on detail to the receiving agency or (2) given an appointment in the receiving agency.

- (1) Detail. An employee of another government on detail shall not be considered an employee of the receiving agency and may not receive a wage or salary from the receiving agency; provided that compensation for disability or death resulting from personal injury arising out of and in the course of the temporary intergovernmental assignment may be granted to the employee, as though he were an employee of the receiving agency, unless the employee, his estate or survivor elects, instead, to receive compensation from the sending agency's program for such disability or death.
- (2) Appointment. An employee of another government on a temporary intergovernmental assignment may be given an appointment by the receiving agency, without regard to the laws and regulations governing

its selection and appointment to positions, and may be granted rights and benefits as other employees appointed by the receiving agency.

**Sec. 83- Salary and benefit costs.** Whenever a unit of government of this State will benefit from the temporary intergovernmental assignment, it may pay for or reimburse the other government for the costs of salary and benefits for an employee on such an assignment, or a portion of such costs, by agreement between the sending and the receiving agencies, provided that, the agreement shall not diminish any rights or benefits to which an employee of this State is entitled to under this chapter.

**Sec. 83- Travel and transportation expenses.** Whenever any unit of government of this State will benefit from a temporary intergovernmental assignment, it may, in accordance with applicable statutes and rules, pay for or reimburse another government for travel and transportation expenses of an employee on such an assignment, or a portion of such expenses, by agreement between the sending and the receiving agencies. Such expenses may include a per diem allowance if the period of assignment will be for less than eight months or the costs of moving the employee's spouse and children, household goods and personal effects between agencies if the period of assignment will be for eight months or longer."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved May 10, 1978.)

A Bill for an Act Relating to the Department of Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 296-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 296-5 Compensation; expenses.** Members shall be allowed:

- (1) Compensation at the rate of \$50 per day for each day's actual attendance at meetings;
- (2) Transportation fares between islands and abroad; and
- (3) Personal expenses at the rates specified by section 78-15, while attending board meetings or while on official business as authorized by the chairperson, when such board meetings or official business shall require a member to leave the island upon which the member resides.

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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\*Edited accordingly.



SECTION 3. This Act shall take effect upon its approval.

(Approved May 10, 1978.)

ACT 65

H.B. NO. 196

A Bill for an Act Relating to the Department of Education.

SECTION 1. Section 297-31, Hawaii Revised Statutes, is amended to read:

**"Sec. 297-31 Definitions.** The terms used in this part have the following meanings unless the context otherwise indicates:

"Board" refers to the board of education.

"Department" refers to the department of education.

"Educational officers" refers to principals, vice-principals, and professional employees of the State and district offices of the department except those in the classified service.

"Incumbent educational officers" refers to educational officers presently in service or on authorized leaves from the department.

"Incumbent teachers" refers to teachers presently in service or on authorized leaves from the department.

"New schedule" refers to the integrated salary schedule set forth in this chapter.

SECTION 2. Part III of Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 297-31.1 Classification, teachers.** (a) The designation of any teacher to any given class shall be determined by the department in accordance with its certification requirements.

(b) Teachers shall be classified as follows:

- (1) A Class I teacher is any teacher who holds a certificate issued by the department and who does not qualify as a Class II, III, IV, V, or VI teacher as described below.
- (2) A Class II teacher is any teacher who holds a certificate issued by the department based upon four acceptable years of college education and other requirements as may be established by the department.
- (3) A Class III teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and other requirements as may be established by the department.
- (4) A Class IV teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and fifteen additional credits approved by the department and other requirements as may be established by the department.
- (5) A Class V teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and thirty additional credits approved by the department and other requirements as may be established by the department.

- (6) A Class VI teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and forty-five additional credits approved by the department and other requirements as may be established by the department.
- (7) A Class VII teacher is any teacher who holds a certificate issued by the department based upon a doctorate and who teaches subjects in or related to his major.

(c) Any teacher teaching technical school courses who is transferred to a community college under the jurisdiction of the board of regents of the University of Hawaii shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege."

SECTION 3. Part III of Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 297-31.2 Classification, educational officers.** The board of education shall classify all educational officer positions of the department of education and adopt a classification/compensation plan for these educational officer positions; provided that such classification/compensation plan shall include a classification appeals procedure."

SECTION 4. Section 297-32, Hawaii Revised Statutes, is amended to read:

**"Sec. 297-32 Salary ranges, teachers.** Salary ranges for teachers of the department of education shall be subject to the requirements of sections 297-33 and 297-34 and shall be as follows:

DEPARTMENT OF EDUCATION  
SALARY RANGES

Class	POSITIONS	DOESR
	I	1
	II	3
	III	5
	IV	6
	V	7
	VI	8
	VII	9

SECTION 5. Part III of Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 297-32.1 Salary ranges, educational officers.** Salary ranges for educational officer positions of the department of education shall be determined by the board of education based on the position classification/compensation plan approved by the board. Salary ranges for educational officer positions shall be subject to the requirements of sections 297-33.1 and 297-34."

SECTION 6. Sec. 297-37, Hawaii Revised Statutes, is amended to read:

**"Sec. 297-37 Educational officers; demotion, transfers.** Any educational officer demoted to a position in a lower salary range shall continue to be paid his

previous salary for the first year of his demotion, after which time he shall be compensated at the appropriate step in the salary range to which he has been demoted. Unless otherwise provided by the department of education, any educational officer who is in a school in which the school rating has declined to a number that would place him in a lower classification shall continue to be paid at his same salary range as long as he remains in the same position in the same school.

SECTION 7. All laws and parts of laws heretofore enacted which are in conflict with this Act are amended to conform herewith.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 9. This Act shall take effect on September 1, 1978.

(Approved May 10, 1978.)

ACT 66

H.B. NO. 1932-78

A Bill for an Act Relating to the Motor Carrier Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 271-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 271-5 Exemptions, generally.** Notwithstanding any other provisions of this chapter, its contents shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.
- (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided, that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engage in the transportation of persons other than those exempted in this paragraph, that portion of their operation shall not be exempt from the provisions contained in this chapter. Nothing herein shall be construed to authorize any person to engage in the transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or a certificate issued by the commission authorizing such transportation.
- (3) Persons operating taxicabs or other motor vehicles utilized in perform-

\*Edited accordingly.

ing a bona fide metered taxicab service. "Taxicab" means and includes:

- (A) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and
  - (B) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, as defined in section 70-1, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area.
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269.
  - (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.
  - (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.
  - (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters or blueprints.
  - (8) Persons operating funeral cars or ambulances.
  - (9) Persons operating motor vehicles in the transportation of garbage or refuse.
  - (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii.
  - (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.
  - (12) Sugar plantations transporting sugar cane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pursuant to contracts administered by the United States Department of Agriculture.
  - (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire.

- (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading.
- (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading.
- (16) Persons engaged in transporting not more than fifteen passengers between their places of abode, or termini near such places, and their places of employment in a single daily round trip where the driver is also on his way to or from his place of employment.
- (17) Persons transporting passengers without charge in motor vehicles owned or operated by such person, where such transportation is provided in conjunction with and in furtherance of a related primary business purpose or enterprise of that person, and such transportation is provided only directly to and from the place of business of such person, except that this exemption shall not apply to persons making any contract, agreement, or arrangement to provide, procure, furnish, or arrange for transportation as a travel agent or broker or a person engaged in tour or sightseeing activities, nor shall this exemption apply where the transportation is undertaken by a person to evade the regulatory purposes of this chapter."

SECTION 2. Section 271-19, Hawaii Revised Statutes, is amended to read:

**"Sec. 271-19 Suspension, change and revocation of certificates and permits.** (a) Certificates and permits shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any certificate or permit may, upon application of the holder thereof, in the discretion of the public utilities commission, be amended or revoked, in whole or in part. The commission may upon complaint or upon its own initiative, after notice and hearing, suspend or revoke any certificate or permit, in part or in whole, if the holder thereof is found to be in violation of any of the provisions of this chapter; provided that a motor carrier's right to engage in transportation by virtue of any certificate or permit may be suspended by the commission immediately without hearing or other proceedings upon the carrier's failure to comply, and until the carrier complies with sections 271-21(a), 271-22(a), 271-17 or Act 20, Special Session Laws of Hawaii 1977, or with any lawful order of the commission.

(b) Upon written request by a motor carrier and for good cause shown, the public utilities commission may place an active certificate or permit in an inactive status. The certificate or permit may be placed on an inactive status for a period not exceeding twelve months. Prior to the termination of the approved inactive period, the certificate or permit must be reactivated or it shall be declared abandoned and the certificate or permit revoked. The certificate or permit may be reactivated at any time within the approved period by fulfilling the requirements for renewal, including the payment of the appropriate fees. No request for inac-

tive status, the cumulative period of which is in excess of two years, shall be granted by the commission. Unless good cause is shown, no request to transfer a certificate or permit which is on inactive status shall be approved by the commission.

(c) No person whose certificate or permit is revoked shall be eligible to apply for a new certificate or permit until the expiration of two years.

(d) A certificate or permit shall be revoked upon the voluntary dissolution of the corporation or partnership in whose name the certificate or permit has been issued. Upon verification with the department of regulatory agencies on the voluntary dissolution of a corporation or partnership, the commission shall issue an order with its findings and revoke the certificate or permit held by the registered certificate or permit holder."

SECTION 3. Section 271-29, Hawaii Revised Statutes, is amended to read:

**"Sec. 271-29 Identification of carriers.** The public utilities commission is authorized, under such rules and regulations as it shall prescribe, to require the display of suitable identification number or numbers, upon any motor vehicle used in transportation subject to this chapter, and to provide for the issuance of numbers. Any substitution, transfer, or use of any identification number or numbers, except such as may be duly authorized by the commission, is prohibited and shall be unlawful."

SECTION 4. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately numbered and to read:

**"Sec. 271- Advertising, aiding and abetting; misdemeanor.** (a) It shall be unlawful for any person, including a person who is exempt by section 271-5 of this chapter, to advertise as a motor carrier of passengers or property, unless such person holds a valid certificate or permit under this chapter issued by the public utilities commission. The term "advertise", as used in this section, includes but is not limited to the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or motor vehicle, or in any newspaper or magazine, or in any directory under a listing of motor common or contract carrier, or broadcasting by airwave transmission, with or without any limiting qualification.

(b) It shall be unlawful for any person to aid or abet an unlicensed or non-certificated motor carrier to evade this chapter or knowingly to combine or conspire with an unlicensed or non-certificated person, or to allow one's certificate or permit to be used by an unlicensed or non-certificated person, or to act as agent or partner or associate, or otherwise, of an unlicensed or non-certificated person, with the intent to evade this chapter.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor."

SECTION 5. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately numbered and to read:

**"Sec. 271- Change of address; responsibility; service of orders.** A motor

carrier shall have, maintain and operate from a definite place of business in the State and shall display therein the certificate or permit issued by the public utilities commission. The certificate or permit holder shall report any change of address or telephone number to the commission within five business days from such change. Communications, correspondence and service of orders and other official documents shall be made upon the certificate or permit holder at the last recorded address on file with the commission. Proof of service by certified or registered mail to the last known address shall constitute a valid service of any commission's order."

SECTION 6. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately numbered, and to read:

**"Sec. 271- Attorney general; aid in enforcement.** Upon written request of the public utilities commission, the attorney general shall prosecute all violations on behalf of the commission for the enforcement of the provisions of this chapter."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 8. This act shall take effect upon its approval.

(Approved May 10, 1978.)

ACT 67

H.B. NO. 1954-78

A Bill for an Act Relating to Labor Standards for the Registration of Apprenticeship Programs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 372-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 372-3 Standards for agreements.** "Standards for apprenticeship agreements" are as follows:

- (1) A statement of the trade or craft to be taught and the required months or hours for completion of apprenticeship which shall be not less than [four thousand hours] twelve months or two thousand hours of reasonably continuous employment;
- (2) A statement of the processes in the trade or craft divisions in which the apprentice is to be taught and the approximate amount of time to be spent at each process;
- (3) A statement of the number of hours to be spent in related instruction which shall not be less than one hundred and forty-four hours per year; provided that the department of labor and industrial relations may, in the best interest of apprenticeship, reduce the hours of related instruction;

\*Edited accordingly.

- (4) A statement that apprentices shall be not less than sixteen years of age;
- (5) A statement of the progressively increasing scale of wages to be paid the apprentice;
- (6) Provision for a period of probation during which the director of labor and industrial relations shall be directed to terminate an apprenticeship agreement at the request in writing of any party thereto;
- (7) Provision that after the probationary period the director may terminate an apprenticeship agreement upon agreement of the parties thereto;
- (8) Provision that the services of the department may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where the differences cannot be adjusted locally or in accordance with the established trade procedure;
- (9) Provision to specify the ratio of apprentice to journeyman;
- (10) Provision that if an employer is unable to fulfill his obligation under the apprenticeship agreement, he may transfer the obligation to another employer;
- (11) Such additional standards as may be prescribed in accordance with this chapter.

An apprentice who, prior to entering into an agreement, has had training or experience or both in the trade or craft in which he is employed as an apprentice may be granted full or partial credit for the training or experience on the recommendation of the employer or the joint apprenticeship committee with the approval of the director."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 10, 1978.)

ACT 68

H.B. NO. 2447-78

A Bill for an Act Relating to Substance Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-198, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-198 State funding of substance abuse agencies.** Certification of a private substance abuse agency pursuant to section 321-193(10), shall be a necessary prerequisite to that substance abuse agency receiving any state funding. This section shall take effect on December 31, 1979."

SECTION 2. Section 329-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 329-14 Schedule I.** (a) The controlled substances listed in this section are included in Schedule I.



(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Diampromide;
- (14) Diethylthiambutene;
- (15) Difenoxin;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxeridine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacilmorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proheptazine;
- (40) Properidine;
- (41) Propiram;
- (42) Racemoramide;
- (43) Trimerperidine.

(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine;
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyl-desorphine;
- (14) Methyl-dihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Phoclo-dine;
- (23) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specified chemical designation:

- (1) 2, 5 dimethoxyamphetamine (2, 5-DMA);
- (2) 3, 4-methylenedioxy amphetamine;
- (3) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (4) 4-bromo-2, 5 dimethoxyamphetamine (4-bromo-2, 5-DMA);
- (5) 3, 4, 5-trimethoxy amphetamine;
- (6) Bufotenine;
- (7) 4-methoxyamphetamine (PMA);
- (8) Diethyltryptamine;
- (9) Dimethyltryptamine;
- (10) 4-methyl-2, 5-dimethoxylamphetamine;
- (11) Ibogaine;
- (12) Lysergic acid diethylamide;
- (13) Marijuana;
- (14) Mescaline;
- (15) Peyote;
- (16) N-ethyl-3-piperidyl benzilate;
- (17) N-methyl-3-piperidyl benzilate;

- (18) Psilocybin;
- (19) Psilocyn;
- (20) Tetrahydrocannabinols;
- (21) Thiophene Analog of Phencyclidine (TPCP)."

SECTION 3. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Amobarbital;
- (2) Methaqualone;
- (3) Pentobarbital;
- (4) Phencyclidine;
- (5) Secobarbital."

SECTION 4. Section 329-18, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
- (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;
- (4) Chlorexadol;
- (5) Glutethimide;
- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methypylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane."

SECTION 5. Section 329-20, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 329-20 Schedule IV.** (a) The controlled substances listed in this section are included in Schedule IV.

(b) Depressants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Barbitol;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Chlorazepate;
- (5) Chlordiazepoxide;
- (6) Clonazepam;
- (7) Diazepam;
- (8) Ethchlorvynol;
- (9) Ethinamate;
- (10) Flurazepam;
- (11) Lorazepam;
- (12) Mebutamate;
- (13) Meprobamate;
- (14) Methohexital;
- (15) Methylphenobarbital;
- (16) Oxazepam;
- (17) Paraldehyde;
- (18) Petrichloral;
- (19) Phenobarbital;
- (20) Prazepam.

(c) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

- (1) Fenfluramine.

(d) Stimulants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline (including organometallic complexes and chelates thereof).\*

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

- (1) Dextropropoxyphene.

(f) The department may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) or any stimulant listed in subsection (d) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the degree of danger or probable danger of the substances which have a depressant or stimulant effect on the central nervous system."

SECTION 6. Section 329-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 329-22 Schedule V.** (a) The controlled substances listed in this section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;
- (2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
- (3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams."

(c) Loperamide.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the brackets, bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 10, 1978.)

ACT 69

H.B. NO. 514

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 249-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 249-13 Determination of rate.** (a) The council shall determine the rate and the minimum tax at which all vehicles and motor vehicles in each respective county shall be taxed as provided by section 249-2. In making the determination, the rate and minimum tax on trucks or non-commercial motor vehicles shall be in accordance with subsection (b). The rate and minimum tax shall be established by ordinance, provided that prior to final action thereon a public hearing shall be held on the proposed rate. Notice of the time and place of the hearing shall be published at least ten days prior to the hearing in a newspaper of general circulation in the county. After the public hearing the council may fix the rate and the

\*Edited accordingly.

## ACT 70

minimum tax at any amount deemed necessary, but such rate and such minimum shall not be higher than that originally proposed when the notice of public hearing was published. Any rate and minimum tax so established shall be effective as of January 1 of the year following the date of enactment of the ordinance.

(b) The rate and minimum tax for a truck or non-commercial motor vehicle shall be the same as provided for a passenger vehicle if:

- (1) The truck or non-commercial motor vehicle has a net weight of six thousand five hundred pounds or less; and
- (2) The owner submits proof to the director of finance that the truck or non-commercial motor vehicle is not being operated for compensation or commercial purposes.

(c) Any person who submits proof under subsection (b) to the director of finance knowing that it is false shall be guilty of a petty misdemeanor."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

## ACT 70

H.B. NO. 1876-78

A Bill for an Act Relating to the Meaning of Child and Related Terms in the Uniform Probate Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:2-109, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:2-109 Meaning of child and related terms.** If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

- (1) An adopted person is the child of an adopting parent and not of the natural parents except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and that natural parent.
- (2) In cases not covered by (1), a person is the child of those persons specified in section 584-1."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall become effective upon its approval.

(Approved May 16, 1978.)

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\*Edited accordingly.

ACT 71

H.B. NO. 1918-78

A Bill for an Act Related to Audit and Accounting.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 40-81, Hawaii Revised Statutes, is amended to read:

**"Sec. 40-81 Report by agencies receiving special moneys.** All state officers, departments, boards, bureaus, commissions, or agencies collecting or receiving any moneys not required by law to be deposited in the state treasury shall report to the comptroller all receipts and disbursements on account thereof for each quarterly period of the calendar year not later than the fifteenth day following the end of each quarterly period on such forms and under such rules and regulations as may be prescribed by the comptroller."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

ACT 72

H.B. NO. 1934-78

A Bill for an Act Relating to Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately numbered, and to read:

**"Sec. 269- Certificates of public convenience and necessity.** (a) No person which holds itself out to the general public as a public utility, as defined in section 269-1, shall commence its business without first having obtained from the commission a certificate of public convenience and necessity. Applications for certificates shall be made in writing to the commission and shall comply with the requirements prescribed in the commission's regulations, and rules of practice and procedure. The application shall include the type of service to be performed, the geographical scope of the operation, the type of equipment to be employed in the service, the name of competing utilities for the proposed service, a statement of its financial ability to render the proposed service, a current financial statement of the applicant, and the rates or charges proposed to be charged including the rules and regulations governing the proposed service.

(b) A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to the terms, conditions, rules and regulations

\*Edited accordingly.

## ACT 73

promulgated by the commission thereunder, and that the proposed service is, or will be, required by the present or future public convenience and necessity; otherwise such application shall be denied. Any certificate issued shall specify the service to be rendered and there shall be attached to the exercise of the privileges granted by the certificate at the time of issuance and from time to time thereafter, such reasonable conditions and limitations as a public convenience and necessity may require.

(c) No public utility which holds a franchise or charter enacted or granted by the legislative or executive authority of the state or its predecessor governments, or which has a bona fide operation as a public utility heretofore recognized by the commission, shall be required to obtain a certificate of public convenience and necessity under Section 269-

(d) Any certificate may, upon application of the holder thereof and in the discretion of the public utilities commission, be amended, suspended or revoked, in whole or in part. The commission after notice and hearing may suspend, amend or revoke any certificate in part or in whole, if the holder thereof is found to be in wilful violation of any of the provisions of this chapter or with any lawful order, rule or regulation of the commission promulgated thereunder, or with any term, condition, or limitation of the certificate.

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

## ACT 73

H.B. NO. 1940-78

A Bill for an Act Relating to the Stadium Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 109, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 109- Stadium special account.** The stadium authority is authorized to set up a special account into which shall be deposited all receipts collected by the authority from the sale of admission tickets for events held at the stadium, including any money deposited with the authority by users to assure the payment of charges for the use of the stadium. Money in the account shall be kept in a depository as defined in section 38-1. Disbursements from the account shall be made in accordance with procedures adopted by the authority and approved by the director of finance."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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\*Edited accordingly.



SECTION 3. This Act shall take effect upon its approval.  
(Approved May 16, 1978.)

ACT 74

H.B. NO. 1949-78

A Bill for an Act Relating to Marriage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 572-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 572-1 Requisites of valid marriage contract.** In order to make valid the marriage contract, it shall be necessary that:

- (1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as to the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate;
- (2) Each of the parties at the time of contracting the marriage is at least sixteen years of age;
- (3) The man does not at the time have any lawful wife living and that the woman does not at the time have any lawful husband living;
- (4) Neither of the parties is impotent or physically incapable of entering into the marriage state;
- (5) Consent of neither party to the marriage has been obtained by force, duress, or fraud;
- (6) Neither of the parties is a person [affected with leprosy or] afflicted with any loathsome disease concealed from, and unknown to, the other party; and
- (7) It shall in no case be lawful for any [persons] person to marry in the State without a license for that purpose duly obtained from the agent appointed to grant marriage licenses;

provided that with the written approval of the family court of the circuit within which the minor resides, it shall be lawful for a person under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject to section 572-2. The marriage ceremony may be performed any place in the State [.] provided that the man and the woman to be married and the marriage officiant are all physically present in Hawaii at the same place and time for the marriage ceremony."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of the statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 16, 1978.)

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Residential Landlord-Tenant Code was enacted in 1972 to govern the relationship between landlord and tenant, granting rights and imposing duties upon each party. One of the basic duties imposed upon landlords and tenants is that they act in good faith. Housing is a basic necessity of each person, and the Code in seeking to protect and promote this necessity has granted certain rights to the tenant while imposing certain limitations upon the landlord. One of these tenant rights is the right, upon the landlord's failure to make certain repairs, to have the repairs made and to deduct the costs of repair from the rent.

The landlord is required to bring a summary proceeding for possession of the dwelling unit if the tenant defaults on the rent. The legislature finds that many times the tenant wrongfully fails to pay the rent, forces the landlord to go to court to seek possession, and withholds any payment of rent during the time the proceeding takes place. The legislature finds that the landlord often obtains possession after a long, drawn out court proceeding, only to find that the tenant cannot or will not pay for the time in which the tenant was in possession of the premises.

The purpose of this Act is to require the tenant, in any proceeding in which the payment or nonpayment of rent is in dispute, to pay the rent as due into a special fund and to make other amendments to further effectuate the purposes for which the landlord tenant code was established.

SECTION 2. Part VI of chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 521- Rent trust fund.** (a) At the request of either the tenant or the landlord in any court proceeding in which the payment or nonpayment of rent is in dispute, the court shall order the tenant to deposit any disputed rent as it becomes due into the court as provided under subsection (c); provided that the tenant shall not be required to deposit any rent where the tenant can show to the court's satisfaction that the rent has already been paid to the landlord; provided further that if the parties had executed a signed, written instrument agreeing that the rent could be withheld or deducted, the Court shall not require the tenant to deposit rent into the fund. No deposit of rent into the fund ordered under this section shall affect the tenant's rights to assert either that payment of rent was made or that any grounds for nonpayment of rent exist under this chapter.

(b) If the tenant is unable to comply with the court's order under subsection (a) in paying the full amount of rent in dispute into the court, the landlord shall have judgment for possession and execution shall issue accordingly. The writ of possession shall issue to the sheriff or to a police officer of the circuit where the premises are situated, commanding him to remove all persons from the premises, and to put the landlord, or his agent, into the full possession thereof.

(c) The court in which the dispute is being heard shall accept and hold in

trust any rent deposited under this section and shall make such payments out of money collected as provided herein. The court shall order payment of such money collected or portion thereof to the landlord if the court finds that the rent is due and has not been paid to the landlord and that the tenant did not have any basis to withhold, deduct, or otherwise set off the rent not paid. The court shall order payment of such money collected or portion thereof to the tenant if the court finds that the rent is not due or has been paid, or that the tenant had a basis to withhold, deduct, or otherwise set off the rent not paid.

(d) The court shall, upon finding that either the landlord or the tenant raised the issue of payment or nonpayment of rent in bad faith, order that person to pay the other party reasonable interest on the rent deposited into the court."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

ACT 76

H.B. NO. 2094-78

A Bill for an Act Relating to the Administrative Procedures Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 91-10, Hawaii Revised Statutes, is amended to read:

**"Sec. 91-10 Rules of evidence; official notice.** In contested cases:

- (1) Any oral or documentary evidence may be received, but every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. The agencies shall give effect to the rules of privilege recognized by law.
- (2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided that upon request parties shall be given an opportunity to compare the copy with the original.
- (3) Every party shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts, and shall have the right to submit rebuttal evidence.
- (4) Agencies may take notice of judicially recognizable facts. In addition, they may take notice of generally recognized technical or scientific facts within their specialized knowledge; but parties shall be notified either

\*Edited accordingly.

before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.

- (5) Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

ACT 77

H.B. NO. 2095-78

A Bill for an Act Relating to Spousal Liabilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 573, Hawaii Revised Statutes, is amended in the following ways:

1. By amending section 573-6 to read as follows:

**"Sec. 573-6 Not liable for spousal debts.** A married person is not liable for the debts of a spouse; nor is a married person's property liable to be taken on execution or other process against that person's spouse.

2. By amending section 573-7 to read as follows:

**"Sec. 573-7 Spousal liabilities.** Both spouses of a marriage, whether married in this State or in some other jurisdiction, and residing in this, shall be bound to maintain, provide for, and support one another during marriage, and shall be liable for all debts contracted by one another for necessities for themselves, one another, or their family during marriage; provided that when a support or maintenance obligation, however designated, is imposed upon a spouse under chapter 580 or any other law, the amount of such obligation shall be determined by the appropriate court on the basis of factors enumerated in section 580-47(a)."

SECTION 2. Section 580-47, Hawaii Revised Statutes, is amended in the following ways:

1. By amending subsection (a) to read:

"(a) Upon granting a divorce, the court may make such further orders as shall appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the par-

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\*Edited accordingly.

ties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney's fees, costs, and expenses incurred by each party by reason of the divorce. In making such further orders, the Court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case. Provision may be made for the support, maintenance and education of an adult or minor child and for the support, maintenance and education of an incompetent adult child whether or not the application is made before or after the child has attained the age of majority.

In addition to any other relevant factors considered the court, in ordering spousal support and maintenance, shall consider the following factors:

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet his or her needs independently;
- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (7) Usual occupation of the parties during the marriage;
- (8) Vocational skills and employability of the party seeking support and maintenance;
- (9) Needs of the parties;
- (10) Custodial and child support responsibilities;
- (11) Ability of the party from whom support and maintenance is sought to meet his or her own needs while meeting the needs of the party seeking support and maintenance; and
- (12) Other factors which measure the financial condition in which the parties will be left as the result of the action under which the determination of maintenance is made.
- (13) Probable duration of the need of the party seeking support and maintenance.

The court may order support and maintenance to a party for an indefinite period or until further order of the court; provided that in the event the court determines that support and maintenance shall be ordered for a specific duration wholly or partly based on competent evidence as to the amount of time which will be required for the party seeking support and maintenance to secure adequate training, education, skills, or other qualifications necessary to qualify for appropriate employment, whether intended to qualify the party for a new occupation, update or expand existing qualification, or otherwise enable or enhance the employability of the party, the court shall order support and maintenance for a period sufficient to allow completion of the training, education, skills, or other activity, and shall allow, in addition, sufficient time for the party to secure ap-

propriate employment.”

2. By amending subsection (d) to read as follows:

“(d) Upon the motion of either party supported by an affidavit setting forth in particular a material change in the physical or financial circumstances of either party or upon a showing of other good cause, the moving party may, in the discretion of the court, and upon adequate notice to the other party, be granted a hearing. The fact that the moving party is in default or arrears in the performance of any act or payment of any sums theretofore ordered to be done or paid by him or her shall not necessarily constitute a bar to the granting of the hearing. The court, upon such hearing, for good cause shown may amend or revise any order and shall consider all proper circumstances in determining the amount of the allowance, if any, which shall thereafter be ordered.

3. By amending subsection (e) to read as follows:

“(e) Attorney’s fees and costs. The court hearing any motion for orders either revising an order for the custody, support, maintenance, and education of the children of the parties, or an order for the support and maintenance of one party by the other, or a motion for an order to enforce any such order or any order made under subsection (a) of this section, may make such orders requiring either party to pay or contribute to the payment of the attorney’s fees, costs, and expenses of the other party relating to such motion and hearing as shall appear just and equitable after consideration of the respective merits of the parties, the relative abilities of the parties, the economic condition of each party at the time of the hearing, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case.”

SECTION 3. Section 580-74, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 580-74 Support of spouse and children.** Upon decreeing a separation, the court may make such further decree for the support or maintenance of either spouse and for the support, maintenance, and education of minor children, by either spouse, or out of the property of either spouse, as may appear just and proper; provided that the court shall apply the considerations required by section 580-47(a) in formulation of any support decree in any action under this part; and provided further that the court may amend or revise any such decree in the same manner and under the same circumstances as provided for by section 580-47(d).”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect July 1, 1978.

(Approved May 16, 1978.)

\*Edited accordingly.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 287-20, Hawaii Revised Statutes, is amended to read:

**"Sec. 287-20 Proof of financial responsibility required upon conviction of certain offenses.** Whenever a driver's license has been suspended or revoked upon a conviction of any offense pursuant to law, or in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinafter named, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver's license but does not revoke or suspend the license, the chief of police shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, and driving while under the influence of drugs;
- (2) Conviction or adjudication under part V of chapter 571 by reason of any offense involving a motor vehicle in motion if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$300.

If any person, at the time of his conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinabove named, or of any offense for which a court of competent jurisdiction may suspend or revoke a driver's license, does not hold a valid driver's license, no such license shall at any time thereafter be issued to the person unless and until he furnishes and thereafter maintains proof of financial responsibility."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

ACT 79

H.B. NO. 2390-78

A Bill for an Act Relating to Industrial Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

## ACT 80

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) As an alternative to the interest authorized by subsection (b), an industrial loan company may contract for and receive interest at a rate not exceeding one and one-half percent per month on the unpaid principal balance of a loan, for a loan period of no longer than fifteen years; provided that retail installment contracts as defined in section 476-1, unsecured loans for less than \$5,000, and loans for less than \$7,500 secured only by personal property shall not be contracted under this subsection for a loan period of longer than six years. For loans contracted under this subsection with a term exceeding six years, the note shall provide for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

## ACT 80

H.B. NO. 2693-78

A Bill for an Act Relating to Statute Revision and Publication.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 23G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

**“Sec. 23G- Printing of acts to be included in publications.** Whenever, in any Act, statutory material to be repealed is bracketed and new material is underscored as a matter of bill drafting style, the revisor, in printing the Act, need not include the brackets, the bracketed material, or the underscoring.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

## ACT 81

H.B. NO. 3051-78

A Bill for an Act Relating to Airport and Harbor Revenue Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 93 of Act 195, Session Laws of Hawaii 1975, as amended by Section 5 of Act 110, Session Laws of Hawaii 1977, is amended to read:

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\*Edited accordingly.



**"SECTION 93. Airport Revenue Bonds.** The Department of Transportation is authorized to issue airport revenue bonds for airport capital investment projects authorized in this act, as amended by Act 226, Session Laws of Hawaii 1976, and designated to be financed by revenue bond funds, or by reimbursable general obligation bonds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the airport revenue bonds to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to Sections 243-4(a)(2) and 248-8, Hawaii Revised Statutes, as amended, or such parts of either thereof as the department may determine, including rents, landing fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall, to the extent not paid from the proceeds of such bonds, be paid from the airport revenue fund. The Governor, in his discretion, is authorized to use the airport revenue fund to finance those projects in this act, as amended, where the method of financing is designated to be by airport revenue bond funds or reimbursable general obligation bond funds."

SECTION 2. Section 93A of Act 195, Session Laws of Hawaii 1975, as added by Section 6 of Act 110, Session Laws of Hawaii 1977, is amended to read:

**"Sec. 93A Harbor Revenue Bonds.** The Department of Transportation is authorized to issue harbor revenue bonds for harbor capital investment projects authorized in this act, as amended by Act 226, Session Laws of Hawaii 1976, and which are designated to be financed by revenue bond funds or by reimbursable general obligation bonds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be deemed necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the harbor revenue bonds to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of part III, chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, and

## ACT 82

pilotage fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of harbors and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall, to the extent not paid from the proceeds of such bonds, be paid from the harbor special fund. The Governor, in his discretion, is authorized to use the harbor special fund to finance those projects in this act, as amended, where the method of financing is designated to be harbor revenue bond funds or reimbursable general obligation bond funds.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

## ACT 82

H.B. NO. 3054-78

A Bill for an Act Relating to Vessels or Property Taken into Legal Custody and Prohibiting Unauthorized Control Thereof.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 226- Vessels or property taken into legal custody; unauthorized control.** No person shall exercise control over a vessel or other property that is under legal custody, seizure, or detention by the department of transportation, with intent to defeat the custody, seizure, or detention, or impede, oppose, or defeat the process whereby the vessel or other property is under custody, seizure, or detention.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1978.)

## ACT 83

S.B. NO. 1639-78

A Bill for an Act Relating to the Board of Trustees of the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-24, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

**"Sec. 88-24 Composition of Board.** The board of trustees shall consist of seven members as follows:

- (1) The director of finance of the State, ex-officio;
- (2) Three members of the system, two of whom shall be general employees and one of whom shall be a teacher, to be elected by the members of the system under the rules and regulations adopted by the board governing the election to serve for terms of six years each, one of the terms to expire on January 1 of each even-numbered year;
- (3) Three citizens of the State who are not employees, one of whom shall be a responsible officer of a bank authorized to do business within the State, or a person of similar experience, to be appointed by the governor with the advice and consent of the senate to serve for a term of six years each, one of the terms to expire January 1 of each odd-numbered year.

Each trustee shall serve until his successor is elected or appointed, as the case may be, and qualified."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval; provided that it shall not apply to incumbent trustees.

(Approved May 18, 1978.)

ACT 84

H.B. NO. 490

A Bill for an Act Relating to Replacement of School Books.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 2985,† Hawaii Revised Statutes, is amended to read as follows:

**"Section 298-5 Public schools special fees and charges.** (a) No equipment, material or other fees shall be assessed against any pupil in any school, except that the department of education may assess and collect special fees and charges from pupils who negligently break, damage, lose, or destroy equipment and supplies. Any pupil found to be responsible for loss, destruction, breakage, or damage to school books, which shall include library and textbooks, shall make restitution to the school in any manner including the payment by the pupil or the pupil's parents of the actual replacement costs of the books.

(b) No pupil shall be required to make restitution in any manner, unless the pupil and the pupil's parents and guardians have been notified and have been given an opportunity to be heard before the principal of the school on the charges that the pupil was responsible for the loss, destruction, breakage, or damage to school books.

(c) If the principal upon a hearing on the charges has reasonable cause to

†So in original. Probably was intended to read "Section 298-5."

believe that the pupil is responsible for the loss, destruction, breakage, or damage to school books he shall design a restitution program which shall be submitted to the pupil, his or her parents or guardian for agreement in writing.

If restitution is made in this fashion, then all records and documents regarding the charges and hearing shall be destroyed. No information about the charges, hearing and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the determination made by the principal, the principal shall preserve all the records and documents regarding the charges and hearing and shall report to the district superintendent of the determination made by the principal for any further action.

(d) Notwithstanding any provisions herein to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this act shall limit the right of the State to bring such action against any person to recover such damages.

(e) The fees or charges shall be deposited in a separate fund and expended by the department under such rules and regulations as it may prescribe.

The department shall raise the standards of all public schools to the level of the English standard system starting in September 1949, and continue these adjustments annually, until all the schools of the State are raised to the level of a single standard system.

The department may continue to group pupils within any public school in accordance with their abilities and educational needs."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

## ACT 85

H.B. NO. 1917-78

A Bill for an Act Relating to the Federal Surplus Property Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 29-18, Hawaii Revised Statutes, is amended to read:

**"Sec. 29-18 Authority and duties of the agency.** The agency may:

- (1) Acquire from the United States under and in conformance with section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, hereinafter referred to as the "Federal Act," any personal property under the control of any executive agency of the United States which has been determined to be surplus property under the Federal Act; warehouse the property; and distribute the property within the State to the eligible recipients, as set forth in the Federal Act;

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\*Edited accordingly.

- (2) Receive applications from eligible health and educational institutions for the acquisition of federal surplus real property, investigate, review, make recommendations and otherwise assist, supervise and direct the processing of such applications for acquisition of real and related personal property of the United States under section 203(k) of the Federal Act;
- (3) Adopt, amend, or rescind such rules and regulations and prescribe such requirements as it may deem necessary and take such other action to assure maximum utilization by applicants of benefits hereunder;
- (4) Appoint advisory boards or committees;
- (5) Take such action including making certifications, expenditures, contracts, agreements, and other undertakings, necessary in connection with the disposal of real and personal property hereunder;
- (6) Act as clearing house of information for the eligible recipients referred to in paragraph (1) of this section and other public and private non-profit institutions, organizations, and agencies eligible to acquire federal surplus real property, locate both real and personal property available for acquisition from the United States, ascertain the terms and conditions under which the property may be obtained, receive requests from the above mentioned eligible recipients, institutions, organizations, and agencies, and transmit to them all available information in reference to the property, and aid and assist the eligible recipients, institutions, organizations, and agencies in every way possible in the consummation of acquisitions or transactions hereunder;
- (7) And shall cooperate to the fullest extent, consistent with the provisions of the Federal Act, with the departments or agencies of the United States, shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in the Federal Act, shall make such reports as the United States may from time to time require, and shall comply with the laws, rules, and regulations of the United States governing the allocation, transfer, use, or accounting for property donated or to be donated to the State;
- (8) Purchase from any other state or states the services of the agency or agencies responsible in the state or states for the distribution of surplus property and to sell to any other state or states the services of the department of accounting and general services for the purpose of assuring and promoting effective administration of this chapter and of the surplus property program; the purchase or sale of services shall be made on a fee-for-service or other equitable and reasonable basis; provided that the fee or other basis of payment for services purchased or sold shall be so computed as to include therein the costs of salaries, travel, supplies, and equipment and any other item properly related to the cost of the service;
- (9) Make such certifications, take such action, make such expenditures, and enter into such contracts, agreements, and undertakings for and in the name of the State (including cooperative agreements with any

federal agencies providing for utilization by and exchange between them of the property, facilities, personnel, and services of each by the other), require such reports and make such investigations as the agency may deem necessary or proper for the administration of this part, or as may be required by law or regulation of the United States in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by the agency from the United States.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

ACT 86

H.B. NO. 1948-78

A Bill for an Act Relating to Vital Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 338-9, Hawaii Revised Statutes, is amended to read:

“**Sec. 338-9 Filing and preparation of death and fetal death certificates.** (a) The person in charge of the disposition of the body shall file with the local agent of the department of health in the district in which the death or fetal death occurred, or a dead body was found, a certificate of death or fetal death within three days after the occurrence, except that reports of intentional terminations of pregnancy performed in accordance with section 453-16 may be deferred for up to one month.

(b) In preparing a certificate of death or fetal death the person in charge of the disposition of the body shall:

- (1) Obtain and enter on the certificate the personal data and other information pertaining to the deceased person required by the department from the person best qualified to supply them;
- (2) Present the certificate of death to the physician last in attendance upon the deceased, or to the coroner’s physician who shall thereupon certify the cause of death to his best knowledge and belief; present the certificate of fetal death to the physician, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as he can furnish; fetal death of less than 16 weeks or intentional terminations of pregnancy performed in accordance with section 453-16 may be certified by a nurse or other employee based upon the physician’s records;
- (3) Notify immediately the appropriate local agent, if the death occurred without medical attendance, or if the physician last in attendance fails

\*Edited accordingly.

to sign the death certificate. In such event the local agent shall inform the local health officer, and refer the case to him for immediate investigation and certification of the cause of death prior to issuing a permit for burial, or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local agent may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts.

If the circumstances of the case suggest that the death or fetal death was caused by other than natural causes, the local agent shall refer the case to the coroner for investigation and certification.

(c) A death certificate may be filed by the next of kin and accepted by the local agent without meeting the requirements set forth above when there has been a judicial finding and declaration by a court of record that a person is dead; provided, that [there shall be attached to the death certificate the judgment, decision, order, or other document of a court of record adjudging the person to be dead.] the certificate is in a form approved by the department and has been certified by the clerk of court."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

ACT 87

H.B. NO. 2192-78

A Bill for an Act Relating to Automobile No-Fault Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 294, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 294-5.2 Priority of insurance coverages.** (a) In the event that there is a temporary substitute vehicle which is made available to a customer, at no charge, by an auto repair shop registered with the motor vehicle industry board or a motor vehicle dealer licensed by the motor vehicle industry licensing board, while the shop or dealer repairs or services the customer's insured motor vehicle, the no-fault policy of the customer's insured motor vehicle shall be primary over the policy on the temporary substitute vehicle.

(b) In the event that a customer's insured motor vehicle is operated by a registered repair shop in the course of service or repair, or to verify repairs, the no-fault policy of the registered repair shop shall be primary over the policy on the customer's insured motor vehicle."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored. In printing this Act, the revisor of statutes need not

include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

ACT 88

H.B. NO. 2318-78

A Bill for an Act Relating to Aquaculture Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 219-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 219-4 Hawaii aquaculture revolving loan fund.** There is established a special fund to be known as the aquaculture revolving loan fund from which moneys shall be loaned by the department of agriculture under this chapter. All interest and fees collected by the department shall be deposited in a loan reserve fund to the extent needed to carry on the operations of this program. All payments received on account of principal shall be credited to the revolving loan program."

SECTION 2. Section 219-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 219-5 Rules and regulations.** The department of agriculture shall have the powers necessary to carry out the purposes of this chapter, including the following:

- (1) Prescribe the qualifications for eligibility of applicants for loans.
- (2) Establish preferences and priorities in determining eligibility for loans and loan repayment requirements.
- (3) Establish the conditions, consistent with the purpose of this chapter, for the granting or for the continuance of a grant of a loan.
- (4) Provide for inspection at reasonable hours of the plant facilities, books, and records of an enterprise which has applied for or has been granted a loan and require the submission of progress and final reports.
- (5) To make loans for aquacultural products development, such as financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials or for the supplying of working capital, consistent with section 219-6.
- (6) To authorize the department to secure loans by duly recorded first mortgages upon the following property within the State:
  - (A) Fee simple farm land;
  - (B) Leaseholds of farm land where the lease has an unexpired term at least two years longer than the term of the loan;
  - (C) Aquaculture products;
  - (D) Other chattels;
  - (E) A second mortgage when any prior mortgage does not contain provisions which might jeopardize the security position of the

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\*Edited accordingly.



- department or the borrower's ability to repay;
- (F) Written agreements such as an assignment of income.
- (7) To administer the Hawaii aquaculture loan revolving fund and to deposit into the fund all moneys received as repayment of loans and interest payment.
- (8) To include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter.
- (9) Insure loans made to qualified aquaculturists by private lenders under sections 219-7 and 219-8; provided that at no time shall the aggregate amount of the State's liability, contingent or otherwise, on such loans exceed \$1,000,000.
- (10) Participate in loans made to qualified aquaculturists by private lenders under section 219-8.
- (11) Establish interest rates chargeable by the State for direct loans and by private lenders for insured and participation loans.
- (12) Maintain a proper reserve in the aquaculture loan revolving fund to guarantee payment of loans insured under sections 219-7 and 219-8."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

ACT 89

S.B. NO. 2332-78

A Bill for an Act Relating to Expenditure of Public Money and Public Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-43, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-43 Mandatory purchase of Hawaii products.** In any expenditure of public funds, a governmental agency shall purchase any required product from the Hawaii products list established under section 103-42 where such products are available, provided the products meet the minimum specifications and the selling price f.o.b. jobsite; unloaded including applicable general excise tax and use tax does not exceed the lowest delivered price in Hawaii f.o.b. jobsite; unloaded including applicable general excise tax and use tax of a similar non-Hawaii product by more than three per cent, where Class I Hawaii products are involved, or five per cent where Class II Hawaii products are involved or ten per cent where Class III Hawaii products are involved.

Where a package bid or purchase contains both Hawaii and non-Hawaii products, then for the purpose of selecting the lowest bid or purchase price only,

\*Edited accordingly.

the price bid or offered for a non-Hawaii product item shall be increased by adding thereto three per cent, five per cent or ten per cent where similar Class I, Class II or Class III Hawaii product items have been bid or offered by another party pursuant to the preferences stated above. The lowest total bid, taking into consideration the above preferences, shall be awarded the contract but the contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of such preferences.

Notwithstanding the provisions of the preceding paragraphs, an additional five per cent preference shall be applicable to Hawaii products manufactured by nonprofit corporations and public agencies operating sheltered workshops as certified by the department of labor and industrial relations for physically or mentally handicapped persons. The state comptroller shall adopt rules under chapter 91 to require a governmental agency to give an additional five per cent preference to the purchase of products manufactured by nonprofit corporations or public agencies operating sheltered workshops consistent with this section."

SECTION 2. Section 103-44, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-44 Designation of products in bidding.** All persons submitting bids based on non-Hawaii products to any governmental agency shall designate in their bids which individual product is to be supplied as a non-Hawaii product. All persons shall also list in their bid, the price of the non-Hawaii product as defined in section 103-43."

SECTION 3. Section 103-45, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-45 Public works contract; specifications.** In all public works and any repair or maintenance contracts, a governmental agency or any person employed by a governmental agency, including architects and engineers, shall describe in all specifications, products and their established classes listed in the Hawaii products list established under section 103-42 which may be used, where the products are available and meet the minimum specifications.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract;
- (2) Appraisal fees, and abstractors’ fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company;
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and insurance premiums on the life of the borrower, provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon; and
- (4) Attorney’s fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract.
- (6) Loan fees or “points” on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j) of this Section; provided, that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or “points” and shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) of eighteen per cent per annum.
- (7) Any reasonable attorneys’ fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an indebtedness, or any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or

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any other documents relating to a contract."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

## ACT 91

H.B. NO. 2816-78

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Legislative policy and purpose.** The legislature finds that the Hawaii no-fault law cannot function in the interest of the protection of our society if compliance with the law is permitted to be the option of some drivers and owners of motor vehicles.

The legislature determines, that in order to protect the public as intended under the Hawaii no-fault law, law enforcement officers and the courts of the State must be placed in a statutory position effectively to enforce the observance of the law.

SECTION 2. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated, and to read:

**"Sec. 294- Verification of insurance.** (a) Every insurer shall issue to its insureds a no-fault insurance identification card for each motor vehicle for which the basic no-fault coverage is written showing the name and make and the factory or serial number of the motor vehicle, policy number, names of the insured and the insurer, and the effective dates of coverage including the expiration date; provided, however, that insurers of five or more motor vehicles which are under common registered ownership and used in the regular course of business shall not be required to indicate the name of make and the factory or serial number of each motor vehicle. The identification card shall be in the insured motor vehicle at all times and shall be exhibited to a law enforcement officer upon demand.

(b) The commissioner of motor vehicle insurance shall issue a certificate of self insurance periodically, as necessary, for use in each motor vehicle insured under section 294-8(a) (2)."

SECTION 3. Chapter 805, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated, and to read:

**"Sec. 805- Motor vehicle insurance violation.** (a) In all cases of citation for alleged violations of chapter 294 or section 286-116, the court shall hear and dispose of such actions expeditiously. Such actions may be severed from any other proceedings to facilitate immediate disposition. Continuance of proceedings on motor vehicle insurance violations may be allowed in the discretion of the court, only after the court has received evidence that the required insurance on the motor vehicle involved was in fact in force on the date of the

citation, or that the motor vehicle has been, or is ordered by the court to be, impounded.

(b) In all cases of citation for alleged violations of chapter 294 or section 286-116 the court shall require the appearance of the driver cited and the registered owner of the motor vehicle. If the registered owner is not the driver, the registered owner shall be cited by service of the citation on the driver who shall be deemed to be the owner's agent for purposes of service and by naming the owner jointly with the driver in the citation. Where the registered owner is a corporation or association, an officer or designated agent thereof shall be required to appear. Where the registered owner is a partnership, a general partner thereof shall be required to appear.

(c) In all such cases of violations as provided herein, the court shall, in addition to any other penalty, impose the following penalties:

- (1) Suspension or revocation of driver's license of the driver and of the registered owner; or
- (2) Suspension or revocation of the motor vehicle registration plates of the vehicle involved; or
- (3) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charge incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or
- (4) Any combination of such penalties.

The court shall impose any other sanction it finds necessary to remove the vehicle or driver involved from the highways, and to preclude the driver or registered owner from the continued operation of any uninsured motor vehicle.

(d) Upon subsequent hearing ordered by the court or upon the driver's or registered owner's motion, the court may, in its discretion, terminate any judgment previously entered under subsection (c) upon finding that the registered owner and the driver, as applicable, have:

- (1) Complied with chapter 287 with respect to any prior accident as evidenced by a form properly validated by a police department; and
- (2) Complied with all requirements under chapter 294 as evidenced by a no-fault insurance identification card and the insurance policy issued by a licensed insurer; or
- (3) Complied with all requirements under chapter 294 as evidenced by a certificate of self insurance issued by the commissioner of motor vehicle insurance pursuant to section 294- (b).

(e) The court may, in its discretion, maintain continuing jurisdiction following any termination or judgment as provided in the preceding paragraph herein, in order to assure the continued compliance of the registered owner or driver with chapters 286, 287, or 294."

SECTION 4. Section 286-116, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-116 License, insurance identification card, possession, exhibition.** (a) Every licensee shall have a valid driver's license in his immediate possession at all times, and a valid no-fault insurance identification card applicable to the motor vehicle operated as required under section 294- , when operating a

motor vehicle, and shall display the same upon demand of a police officer. Every police officer or law enforcement officer when stopping a vehicle or inspecting a vehicle for any reason shall demand that the driver or owner display his driver's license and insurance identification card. No person charged with violating this section shall be convicted if he produces in court, or proves from the proper official or other records that he was the holder of a driver's license or a no-fault identification card and policy conforming to chapter 294 or a certificate of self insurance issued by the commissioner of motor vehicle insurance pursuant to section 294- (b), theretofore issued to him and valid at the time of his arrest.

(b) At any time a law enforcement officer finds a motor vehicle in operation by a driver not in possession of the no-fault insurance identification card required under section 294- , the officer shall issue a citation with the earliest possible date for court appearance in every instance.

(c) In all instances in which a citation shall be issued under subsection (b), whenever the driver cited is not found to be the registered owner of the motor vehicle under operation, the citation shall also be issued to the driver as the owner's agent and to the registered owner of the motor vehicle. Whenever the registered owner of any motor vehicle permits any person to operate his motor vehicle, he appoints, designates, and constitutes the driver his agent for all purposes under this section and sections 294- , and 805-

(d) The operation of any motor vehicle required to be licensed on a highway by a driver, whether or not licensed, who knows, or has reason to believe, that the motor vehicle is not insured in compliance with chapter 294, shall constitute a violation of this chapter.

(e) Any registered owner of any motor vehicle required to be licensed, who directly or indirectly permits the operation of such motor vehicle on any highway at any time the motor vehicle is not insured in compliance with chapter 294, shall be guilty of a violation of this chapter. The registered owner shall, in all cases, be presumed to know whether a motor vehicle is insured in compliance with chapter 294."

SECTION 5. Section 294-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) (1) No person shall operate or use a motor vehicle upon any public street, road, or highway of this State at any time unless such motor vehicle is insured at all times under a no-fault policy. Every owner of a motor vehicle used or operated at any time upon any public street, road, or highway of this State shall obtain a no-fault policy upon such vehicle which provides the coverage required by this chapter and shall maintain the no-fault policy at all times for the entire motor vehicle registration period.

(2) The requirements of this subsection may be satisfied by any owner of a motor vehicle if:

(A) Such owner provides a surety bond, proof of qualifications as a self-insurer, or other securities affording security substantially equivalent to that afforded under a no-fault policy, providing coverage at all times for the entire motor vehicle registration period, as determined and approved by the commissioner under

- regulations, and
- (B) The commissioner is satisfied that in case of injury or death or property damage, any claimant would have the same rights against such owner as the claimant would have had if a no-fault policy had been applicable to such vehicle.”

SECTION 6. Section 294-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) An owner of a motor vehicle registered in this State who fails to maintain insurance as required by section 294-8, shall immediately surrender the registration certificate and license plates for the vehicle to the county director of finance and may not operate or permit operation of the vehicle in this State until insurance has again been obtained.”

SECTION 7. Section 294-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) A no-fault policy, including required optional additional insurance meeting provisions of section 294-11, once issued may not be canceled or refused renewal by an insurer except for:

- (1) Suspension or revocation of the license of the principal operator to operate the type of motor vehicle insured, or
- (2) Failure to pay the premium for such policy after reasonable demand therefor.

In any case of cancellation or refusal to renew, the insurer shall continue all no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. In any case of cancellation or refusal to renew, written notice shall be given to the insured, not less than thirty days prior to the effective date of such cancellation or refusal to renew. Such cancellation or refusal to renew shall not be deemed valid unless supported by a certificate of mailing properly validated by the United States Post Office.”

SECTION 8. Section 294-39, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) Any person subject to the provisions of this chapter in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this chapter, shall be subject to citation for such violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit. Each violation shall be deemed a separate offense and shall be subject to a fine not less than \$100 nor more than \$1,000 and such fine shall not be suspended, or thirty days imprisonment, or suspension of motor vehicle driver’s license, or forfeiture of motor vehicle certificate of registration, or any combination of such penalties.”

SECTION 9. Section 286-26, Hawaii Revised Statutes, shall be amended by adding subsection (h) to read:

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“(h) As part of the inspection required by this section the owner of the vehicle to be inspected shall produce and display the no-fault insurance identification card for the inspected motor vehicle required by section 294- . If no card is displayed then the sticker authorized by the state highway coordinator shall not be affixed to the vehicle and the certificate of inspection shall not be issued.”

SECTION 10. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 294- Unlawful use of no-fault insurance identification card.** It shall be a violation of this chapter for any person who makes, issues, or knowingly uses any fictitious, or fraudulently altered no-fault insurance identification card, or any person who displays or causes or permits to be displayed a no-fault insurance identification card knowing that the no-fault policy was cancelled as provided in section 294-9.”

SECTION 11. Section 286-108, Hawaii Revised Statutes, is amended to read:

“**Sec. 286-108 Examination of applicants.** The examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. The examination shall be held in the county where the applicant resides within ten days from the date of the filing of the application. It shall include a test of the applicant's eyesight and such further physical examination as the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways; the applicant's ability to understand highway signs regulating, warning, and directing traffic; his knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where he resides or where he intends to operate a motor vehicle; and actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the state highway safety coordinator. As part of the examination required by this section the applicant for a driver's license shall produce and display a valid no-fault insurance identification card for the motor vehicle required by section 294- , when he demonstrates his ability to operate a motor vehicle to the satisfaction of the examiner of drivers. If no valid no-fault insurance identification card is displayed, the examiner of drivers shall not issue a driver's license to the applicant.”

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 13. This Act shall take effect on September 1, 1978.

(Approved May 18, 1978.)

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\*Edited accordingly.



A Bill for an Act Relating to the Motor Vehicle Industry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 437-15, Hawaii Revised Statutes, is amended to read:

**"Sec. 437-15 Principals held responsible.** Every holder of a license issued under this chapter may be held responsible for the conduct of his agents and employees in all transactions regarding motor vehicles, motor vehicle parts, franchises, and transactions involving a subject or matter within the jurisdiction of the board. No licensee shall permit any person not licensed under this chapter to sell or exchange or offer to sell or exchange any motor vehicle on the premises specified in the license or to sell or exchange any motor vehicle on behalf of the licensee off the premises specified in the license."

SECTION 2. Section 437-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 437-17 Bond of dealer.** (a) Each new motor vehicle dealer receiving a license shall keep in force a bond to the motor vehicle industry licensing board in the penal sum of \$25,000 if the license is for a county with a population of 200,000 or more and \$15,000 if the license is for any county with a population of less than 200,000. Each used motor vehicle dealer shall give and keep in force a bond to the board in the penal sum of \$10,000. More than one bond may be furnished by the same applicant, provided they aggregate the full amount prescribed by this section. If any bond is not (1) executed by a surety company authorized to do business in the State, or (2) secured by a deposit of cash with the board in lieu of surety, then sections 103-35 to 103-37 shall be applicable as nearly as may be to furnishing of such bond and the surety or sureties and the security thereof, with the substitution of the board hereunder for the awarding officer mentioned in sections 103-35 and 103-37 as may be applicable.

(b) It is provided:

- (1) That if the applicant maintains an established place of business in the county concerned which is used, or will be used, for the purpose of selling, displaying, or offering to negotiate for the purchase of motor vehicles, the market value of which, over and above all liens, charges, and encumbrances thereon is equal to or greater than ninety per cent of the amount of bond required by this section, and the financial condition of the applicant is such that, in the judgment of the board the excess over ten per cent of the bond may be waived without unduly jeopardizing the possible rights and interests of present and prospective claimants against the applicant intended to be secured by the bond, then the amount of the bond for new motor vehicle dealers or used motor vehicle dealers may be reduced at the discretion of the board; and
- (2) That if the dealer is licensed to engage in the business of selling only motorcycles and motor scooters, the bond shall be only in the amount of \$5,000 for a county with a population of 200,000 or more, and \$1,000

for any county with a population of less than 200,000.

(c) The bond shall be conditioned:

- (1) That the dealer will faithfully and truly comply with all the valid provisions of this chapter as the same now is or may hereafter be amended, and with such valid regulations as may be promulgated by the board pursuant to this chapter.
- (2) That he will not be guilty of fraud, misrepresentation or other improper business conduct in connection with the selling, purchasing, negotiating for purchase, or otherwise dealing with motor vehicles or any other property related thereto, and that he will satisfy all judgments rendered against him based in whole or in part upon representations or warranties made in connection with any retail sale or negotiation for the purchase of a motor vehicle.
- (3) That he will protect the treasurer of the county and any purchaser of any vehicle or any person acquiring any lien thereon or successor in interest of any such person against any loss on account of any defect in or undisclosed encumbrance upon the title of any motor vehicle, registered by the treasurer in reliance upon any certificate, affidavit, or other representation of the dealer, or registration or transfer of registration procured by the dealer.

(d) Suit on bond. The board, director of regulatory agencies, or the treasurer, or any person, who has been or claims to have been injured by the breach of the conditions shall have the right of action to recover on any such bond, plus a reasonable attorney's fee (to be allowed by the court, no other attorney's fees shall be permitted from the bond proceeds) incurred to procure the recovery under the bond, but the aggregate liability of the surety or sureties to all such persons shall in no event exceed the amount of the bond. Nothing in this section or chapter shall be deemed to prohibit or prevent an independent action against the dealer and any other person from being joined or consolidated with an action on the bond, and the recovery of a larger amount than the amount of the bond founded upon any other cause or causes of action so joined or consolidated."

SECTION 3. Section 437-28, Hawaii Revised Statutes, is amended to read:

**"Sec. 437-28 Suspension; revocation; fine; denial of issuance or renewal of a license.** (a) Investigation. The board shall upon the verified written complaint of any person or may upon its own motion investigate the conduct of any licensee or applicant for a license under this chapter and may suspend, revoke, fine, or deny the issuance or renewal of any license issued under this chapter in the manner and for the causes provided in this chapter.

(b) Grounds for suspension, revocation, fine, or denial of issuance or renewal of a license. The board may, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, suspend, revoke, fine, or deny the renewal of any

license, or prior to such notice and hearing deny the issuance of any license if it finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than a ten per cent interest of such applicant or holder:

- (1) Has intentionally made a false statement of a material fact in his application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation; or
- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule, regulation, or order made pursuant to this chapter; or
- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase such motor vehicles; or
- (4) Has engaged in his business under a past or present license issued pursuant to this chapter, in such a manner as to cause injury to the public or to those with whom he is dealing; or
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem him to be an unfit or improper person hold a license; or
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or
- (7) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors; or
- (8) In the case of an individual applicant or holder of a license, is not at least eighteen years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least eighteen years of age; or
- (9) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of motor vehicle or any interest therein including an option to purchase; or
- (10) Has violated any of the laws pertaining to false advertising or to retail installment sales in the offering, soliciting, selling, or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein; or
- (11) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (12) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause; or

- (13) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule or regulation adopted thereunder; or
- (14) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor; or
- (15) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed; or
- (16) Has entered or attempted to enter any one-payment contract, where the contract is required to be signed by the purchaser prior to removal of the motor vehicle for test driving from the seller's premises; or
- (17) Being a salesman or dealer:
  - (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer; or
  - (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle; or
  - (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesman clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or
  - (D) Has engaged in any improper business conduct.
- (18) Being an applicant or holder of a dealer's license:
  - (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for such new vehicles or without providing and maintaining adequate repair facilities and personnel for such new vehicles at either the main licensed premises or at any branch location; or
  - (B) Has employed or proposed to employ any salesman who is not duly licensed under this chapter; or
  - (C) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
- (19) Being an applicant or holder of an auction's license:
  - (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
  - (B) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
- (20) Being an applicant for a salesman's license:
  - (A) Does not intend to be employed as a salesman for a licensed motor vehicle dealer; or

- (B) Does not intend to be employed as a salesman as his principal occupation; or
- (C) Intends to be employed as a salesman for more than one dealer; or
- (21) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or
- (22) Being a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative:
  - (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with such dealer, by threatening to cancel the franchise agreement or by threatening to refuse, at the expiration of the current franchise agreement, to enter a new franchise agreement with such dealer; or
  - (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with such dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer; or
  - (C) Has attempted to or has canceled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon such cancellation or failure to renew the franchise agreement, the party canceling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the business, good will, property, and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts, and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting such compensation; provided such investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for his damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other; or

- (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who has placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor or production difficulty, or other similar cause beyond the reasonable control of the manufacturer; or
- (E) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging such dealer more for a new motor vehicle or services, parts, or accessories therefor or a higher rate of transportation for transporting such vehicle from the manufacturing or assembly plant to such dealer or any portion of such distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories therefor or for similar transportation for such vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon such franchised dealer in this State during the same period is deemed to have so discriminated against such franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of such discriminatory act against the franchise dealer in this State. The intent and purpose of this subparagraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This subparagraph shall be liberally interpreted to effect such intent and purpose and in the application thereof, the substance and effect and not the form of

the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph (E) shall prohibit establishing delivered prices or destination charges to dealers in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of such products to such dealers, including costs which are related to the geographical distances, modes and cost of transportation involved in shipments to this State, or which meet those lower prices established by competitors; or

- (F) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by such dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of such new motor vehicles and cannot be removed therefrom without substantial expense.

(c) Suspension pending hearing. Upon finding by the board or by the director of regulatory agencies that a licensee is engaging within this State in activities which involve (1) an immediate and unreasonable threat to personal safety or (2) fraud or misrepresentation upon customers, and that, for the protection of the public from the possible consequences of such practices, the business of licensee should be immediately suspended, the board or the director may order the summary suspension of the license for a period not to exceed five days, pending a hearing by the board on the charges involving such practices. The order of suspension shall be served upon the licensee at the same time as the notice of hearing upon such charges, which hearing shall be scheduled prior to the expiration of the order of suspension. The period of suspension prior to the hearing cannot be extended except upon request of the licensee for a reasonable continuance adequately to prepare his defense.

Any attempt of the licensee to continue his business or occupation while his license is so suspended shall of itself be sufficient to warrant a permanent revocation of his license and shall also subject him to all the penalties prescribed by this chapter for violations. For such disregard of an order suspending his license, the board may summarily take possession of and impound all motor vehicles belonging to or in the possession of the licensee whether or not the vehicles are situated upon the licensed premises, pending final action in this case or may, without taking possession of such motor vehicles, render them unusable; provided, that the right of the board to take any such action and any liens for towing or storage or otherwise arising from such action are subject to and subordinate to any security interest which has attached to such motor vehicles prior thereto, and the board shall prior to taking any such action give notice thereof to any secured party whose security interest in such motor vehicles is known to the board or who, prior to any such action by the board, had filed a financing statement cover-

ing such motor vehicles or had noted his lien on the legal ownership certificates thereof.

(d) Fines. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 nor no more than \$1,000 for each violation.

(e) Restitution. In lieu of or in addition to the fine imposed under this section, the board may require the motor vehicle dealer to make restitution to the customer. Restitution may be imposed in lieu of a fine even though the amount may exceed the fine set forth in subsection (d)."

SECTION 4. Section 286-52, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-52 Procedure when title of vehicle transferred; delivery of certificate mandatory.** (a) Upon a transfer of the title or interest of a legal owner in or to a vehicle registered under this part, the person whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of ownership issued for the vehicle, together with the address of the transferee in the appropriate space provided upon the reverse of the certificate.

(b) Within twenty calendar days thereafter, the transferee shall forward both the certificate of ownership so indorsed and the certificate of registration to the director of finance who shall file the same. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$2, in addition to the fee provided in section 286-51, for a new certificate of ownership.

(c) Subsection (b) of this section, requiring a transferee to forward the certificate of ownership after indorsement and the certificate of registration to the director of finance, shall not apply to the transferee of a vehicle who was not intending to and does not drive the vehicle or permit the vehicle to be driven upon the public highways, but every such transferee shall, upon transferring his interest or title to another, give notice of the transfer to the director of finance and indorse the certificate of ownership to the new legal owner and the certificate of registration to the new owner; provided that the director of finance, if he has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to the transfer, that the registered owner deposit or pay bail with respect to all such summons or citations.

(d) The director of finance, upon receipt of the certificate of ownership properly indorsed and the certificate of registration of the vehicle, shall register the vehicle, and shall issue to the owner and legal owner entitled thereto by reason of the transfer a new certificate of registration and the certificate of ownership, respectively, in the manner and form hereinabove provided for original registration.

(e) Until the director of finance has issued the new certificate of registration and certificate of ownership as in subsection (d) provided, delivery of such vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose, notwithstanding any provision of



the Uniform Commercial Code; provided that a security interest in a motor vehicle shall be perfected as provided in the Uniform Commercial Code, sections 490:9-302(3) (b) and 490:9-302(4), and that the validity, attachment, priority, and enforcement of such security interest shall be governed by Article 9 of the Code.

(f) In the event of the transfer by operation of law of the title or interest of a legal owner in and to a vehicle registered under this part, as upon inheritance, devise, or bequest, order in bankruptcy, or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose title or interest is so transferred, the certificate of ownership shall be signed upon the reverse thereof by the personal representative, receiver, trustee, sheriff, or other representative, or successor in interest of the person whose title or interest is so transferred in lieu of such person. Every personal representative, receiver, trustee, sheriff, or other representative hereinabove referred to shall file with the director of finance a notice of any transfer by sale, lease, or otherwise by him, of any such vehicle, together with evidence satisfactory to the director of finance of all facts entitling such representative to make the transfer. Upon notice given to the director of finance that transfer by operation of law of the title or interest of a legal owner or a registered owner has been effected pursuant to any provision of law, the director of finance shall send to the legal owner or the registered owner or both a notice of registered mail of such action and requesting the delivery to the director of finance of the certificate of ownership or the certificate of registration, as the case may be, within ten days after date of mailing of the notice, and any person who refuses or neglects to deliver the same to the director of finance pursuant to the notice shall be guilty of a misdemeanor and shall be punished as provided in section 286-61.

(g) Nothing in the foregoing subsections shall prevent a legal owner from assigning his title or interest in or to a vehicle registered under this part to another legal owner at any time without the consent of and without affecting the interest of the holder of the certificate of registration thereof. Upon filing with the director of finance of a certificate of ownership endorsed by the legal owner and a transferee of legal ownership, the director of finance shall, whether the certificate of registration has expired or not, enter the name of the new legal owner upon the records of his office and shall forthwith issue a new certificate of ownership to the new legal owner in the form for original registration. Upon so doing, the director of finance shall send to the registered owner a notice by mail of the action.

(h) Any person who refuses or neglects to deliver a certificate of ownership to a transferee entitled thereto under this part, shall be punished as provided in section 286-61.

(i) Every dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, shall immediately give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every such notice shall contain the date of the transfer, the names and addresses of the transferor and transferee, and such description of the vehicles as may be called for in the official form.

(j) Every person, other than a dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, shall within ten days give notice of the

transfer to the director of finance upon the official form provided by the director of finance. Every notice shall contain the date of transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in the official form. Any person who violates this subsection shall be fined not more than \$100.

(k) Whenever the registered owner of any motor vehicle or any licensed dealer has given notice to the director of finance of a transfer of his title or interest in the motor vehicle, as provided in subsection (j) or (i) of this section, and has delivered the certificate of ownership bearing his signature to the transferee as required by subsection (a) of this section, he shall be relieved from any liability, civil or criminal, which he might subsequently incur by reason only of his being the registered owner of the vehicle.

(l) A licensed dealer who has forwarded a properly indorsed certificate of ownership and certificate of registration to the director of finance shall be relieved of any civil liability, provided a specific written authorization to forward the certificates has been obtained from the transferee.

(m) Any person who falsely or fraudulently gives notice to the director of finance of a transfer of his title or interest in a motor vehicle shall be subject to the penalty provided in section 286-61."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect upon its approval, except for Section 2 which shall take effect three months after approval.

(Approved May 18, 1978.)

ACT 93

H.B. NO. 3059-78

A Bill for an Act Relating to Land Fire Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 185-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 185-4 Payment for fire fighting.** No federal [, state,] or county agency summoned by a fire warden to assist in extinguishing a fire shall be reimbursed for expenses incurred in such fire fighting.

No owner, lessee, or occupier of any lands upon which a fire has occurred, nor any employee of such persons, nor any person who has any vested interest in and to the lands or his employees shall be entitled to the compensation provided for in this chapter, for his services and materials rendered in and upon the land in the extinguishment of any fire; provided the prohibition contained in this paragraph shall not apply to owners or persons holding interests to any lands which have been surrendered to the department of land and natural resources under agreement as a public forest reserve for a period of ten years or more or as a

\*Edited accordingly.

public shooting ground for a period of five years or more or to any owner who suffered a fire as a result of his allowing his land to be used by the general public without compensation.

The department shall pay all expenses for wages of persons, use of equipment, supplies, or materials summoned or used by the state forester, or a fire warden, for controlling and extinguishing any fire coming within the meaning of this chapter.

All expenses incurred in controlling or extinguishing a fire by the state forester, or a fire warden, shall be payable from the [governor's] fire fighter's contingent fund, [provided such has been established by the legislature, and] provided the fire suppression budget is exceeded, and the owner, lessee, or agency having control over the lands has not been negligent in starting or failing to control or extinguish a fire. Any person, agency, or corporation summoned by the state forester, or a fire warden to assist in extinguishing a fire eligible under this chapter to claim for reimbursement for wages, equipment use, supplies, or materials must submit an itemized statement of such claims to the chief fire warden through the district fire warden within sixty days after the fire has been extinguished in order to have it honored.

There shall be a Fire Fighter's Contingency Fund established under the control of the Department of Land and Natural Resources and the amount of \$200,000 shall be appropriated each fiscal year to this fund. Any unused portion shall lapse at the end of the fiscal year.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1978.)

ACT 94

S.B. NO. 2464-78

A Bill for an Act Relating to Noise Pollution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342-41, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 342-41 Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Excessive noise" means the presence of sound as measured by standard testing devices as established by the noise rules and regulations promulgated by the department of a volume or in quantities and for durations which endangers human health, welfare or safety, animal life, or property or which unreasonably interferes with the comfortable enjoyment of life and property in the State or in such areas of the State as are affected thereby.

- (2) "Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn, including boats and ships.

SECTION 2. Section 342-42, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 342-42 Powers and duties, specific.** In addition to any other duty prescribed by law and in this part, the director shall prevent, control, and abate excessive noise in the State. In the discharge of this duty, the director may:

- (1) Establish by rule or regulation the control of vehicular noise;
- (2) Establish by rule or regulation other specific areas for control of excessive noise, thereby allowing for varying conditions;
- (3) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of excessive noise and the means whereby noise may be monitored, controlled, or abated;
- (4) Conduct or commission and supervise state educational and training programs on noise prevention, control, and abatement, including the preparation and distribution of information relating to excessive noise [:] and its effect on people;
- (5) Appoint a master or masters to conduct investigations and hearings;
- (6) Receive or initiate complaints of excessive noise, hold hearings in connection with excessive noise, and institute legal proceedings in the name of the State for the prevention, control or abatement of excessive noise; and
- (7) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the State or from private sources for the study and control of excessive noise."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 20, 1978.)

ACT 95

H.B. NO. 1907-78

A Bill for an Act Relating to Income Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) When the status of a taxpayer changes during the taxable year from resident to nonresident, or from nonresident to resident, the tax imposed by this chapter applies to the entire income earned during the period of residence in the manner provided in subsection (a) of this section and during the period of non-residence the tax shall apply upon the income received or derived as a nonresi-

dent in the manner provided in subsection (b) of this section; provided that, if it cannot be determined whether income was received or derived during the period of residence or during the period of nonresidence, there shall be attributed to the State such portion of the income as is determined by applying to such income for the whole taxable year the ratio which the period of residence in the State bears to the whole taxable year, unless the taxpayer shows to the satisfaction of the department of taxation that the result is to attribute to the state income, dependent upon residence, received or derived during the period of nonresidence, in which event the amount of income as to which such showing is made shall be excluded."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1979.

(Approved May 20, 1978.)

ACT 96

H.B. NO. 1970-78

A Bill for an Act Relating to Community Service as a Sentencing Alternative.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-605, Hawaii Revised Statutes, (Hawaii Penal Code) is amended to read as follows:

**"Sec. 706-605 Authorized disposition of convicted defendants.** (1) Except as provided in section 706-606 and subject to the applicable provisions of this Code, the court may suspend the imposition of sentence on a person who has been convicted of a crime, may order him to be committed in lieu of sentence in accordance with section 706-607, or may sentence him as follows:

- (a) To be placed on probation as authorized by part II of this chapter; or
- (b) To pay a fine authorized by part III of this chapter; or
- (c) To be imprisoned for a term authorized by part IV of this chapter; or
- (d) (To pay a fine and to probation or to pay a fine and to imprisonment, but not to probation and imprisonment, except as authorized by part II of this chapter; or
- (e) To make restitution or reparation to the victim or victims of his crime in an amount he can afford to pay, for loss or damage caused thereby in addition to paragraph (a), (b), (c), (d), or (f) of this subsection (1);
- (f) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or under other appropriate supervision, or to

\*Edited accordingly.

perform such services and to probation, as the court may direct, provided that the convicted person who performs such services shall not be deemed to be an employee for any purpose. The extent of services required shall be stated in the judgment. The court shall not sentence the convicted person only to perform such services unless, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that such services alone suffice for the protection of the public.

(2) The court may suspend the imposition of sentence on a person who has been convicted of a violation or may sentence him to pay a fine authorized by part III of this chapter.

(3) The court shall sentence a corporation or unincorporated association which has been convicted of an offense in accordance with section 706-608.

(4) This chapter does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall become effective upon its approval.

(Approved May 20, 1978.)

ACT 97

H.B. NO. 2100-78

A Bill for an Act Relating to Fishing in the Northwestern Hawaiian Islands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-37, Hawaii Revised Statutes, is amended to read:

**"Sec. 188-37 Fishing in the Leeward Islands.** The department of land and natural resources may adopt regulations relating to seasons, fishing methods and appliances, and, the relation of same to any part of or the whole of the Leeward Islands, where, in the judgment of the department the action will not deplete the stocks of fish and shellfish in the area or areas.

Those islands, reefs and shoals, as well as their respective appurtenant reefs and territorial waters, of the Hawaiian Islands chain beginning and including Nihoa Island to and including Kure Island shall, for the purpose of sections 188-37 to 188-39, be referred to as the Leeward Islands of the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, bracketed material, or the underscoring.\*

\*Edited accordingly.

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 20, 1978.)

ACT 98

H.B. NO. 2306-78

A Bill for an Act Relating to the Costs of Court Orders.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 704, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 704- Costs of court orders.** The cost of airfare, ground transportation and per diem for police officers and defendants pursuant to court order, bench warrant or other valid order under this chapter shall be charged to the issuing court."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 20, 1978.)

ACT 99

H.B. NO. 2394-78

A Bill for an Act Relating to Electricians and Plumbers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 448E-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 448E-4 Powers and duties of board.** The board shall have all the powers and duties necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limitation, the following powers [:] and duties:

- (1) To grant licenses which shall be renewable on an annual basis to:
  - (A) Journeyman electricians,
  - (B) Journeyman specialty electricians,
  - (C) Supervising electricians,
  - (D) Supervising specialty electricians,
  - (E) Motion picture operators,
  - (F) Master plumbers,
  - (G) Journeyman plumbers, and
  - (H) Maintenance electricians;
- (2) To make, amend, or repeal such rules and regulations as it may deem proper to effectuate this chapter and to insure the safety and welfare of

\*Edited accordingly.

## ACT 100

the general public. All such rules and regulations shall be adopted pursuant to chapter 91. The rules and regulations may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;

- (3) To enforce this chapter and rules and regulations adopted pursuant thereto including the denial, suspension or revocation of any license; and
- (4) To examine all applicants and determine their qualifications prior to the issuance of licenses.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1978.)

## ACT 100

H.B. NO. 2173-78

A Bill for an Act Relating to Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 225, Hawaii Revised Statutes, is repealed.

SECTION 2. Notwithstanding any law to the contrary, the Hawaii Revised Statutes is amended by adding a new chapter, to be appropriately designated, and to read as follows:

### “CHAPTER

### HAWAII STATE PLANNING ACT

#### PART I. OVERALL THEME, GOALS, OBJECTIVES AND POLICIES

**Sec. -1. Findings and purpose.** The legislature finds that there is a need to improve the planning process in this State, to increase the effectiveness of public and private actions, to improve coordination among different agencies and levels of government, to provide for wise use of Hawaii’s resources and to guide the future development of the State.

The purpose of this chapter is to set forth the Hawaii state plan that shall serve as a guide for the future long-range development of the State, identify the goals, objectives, policies, and priorities for the State of Hawaii; provide a basis for determining priorities and allocating limited resources, such as public funds, services, manpower, land, energy, water, and other resources; and assure coordination of state and county plans, policies, programs, projects, and regulatory activities.

The purpose of this chapter is also to establish a system for plan formulation and program coordination to provide for an integration of all major state and county activities. Implementation provisions contained herein are designed to carry out statewide guidelines presented in the form of the overall theme, goals, objectives, policies, and priority directions by:



- (1) Fostering policy integration and coordination of state and county plans, programs, projects, and regulatory activities;
- (2) Defining a statewide planning system and processes; and
- (3) Providing a basis for determining priorities and allocating limited resources.

**Sec. -2 Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) "Department" means the department of planning and economic development.
- (2) "Policy council" means the council established in section -53.
- (3) "Advisory committee" means the committee established in section -57 to advise and assist in the formulation of the state functional plans.
- (4) "State agency" means any department, office, board, or commission of the State, or the University of Hawaii.
- (5) "County agency" means any department, office, board, or commission of the county.
- (6) "Hawaii state plan" means a long-range comprehensive plan, including the overall theme, goals, objectives, policies, priority directions, and implementation mechanisms established in this chapter.
- (7) "Priority directions" means the overall direction and implementing actions established in this chapter.
- (8) "County general plan" means the comprehensive long-range plan or development plan, if any, which has been adopted by ordinance or resolution by a county council.
- (9) "County development plan" means a relatively detailed plan for an area or region within a county to implement the objectives and policies of a county general plan.
- (10) "Functional plan" means a plan setting forth the policies, programs, and projects designed to implement the objectives of a specific field of activity, when such activity or program is proposed, administered, or funded by any agency of the State.
- (11) "State programs" means a combination of actions and activities undertaken by any state agency that are designed, coordinated, and executed to achieve an objective or set of objectives and policies within defined areas of concern.
- (12) "A-95 Clearinghouse" means the agency or agencies designated to carry out the procedures established pursuant to federal directive A-95 whereby certain applications for federal funds are reviewed and affected agencies are notified of the proposed applications.
- (13) "Regional carrying capacity" means the maximum population in a given area that can be adequately supported in an economically and environmentally sound manner.

**Sec. -3 Overall theme.** Hawaii's people, as both individuals and groups, generally accept and live by a number of principles or values which are an integral part of society. This concept is the unifying theme of the state plan. The following

principles or values are established as the overall theme of the Hawaii state plan:

- (1) *Individual and family self-sufficiency* refers to the rights of people to maintain as much self-reliance as possible. It is an expression of the value of independence, in other words, being able to freely pursue personal interests and goals. Self-sufficiency means that individuals and families can express and maintain their own self-interest so long as that self-interest does not adversely affect the general welfare. Individual freedom and individual achievement are possible only by reason of other people in society, the institutions, arrangements and customs that they maintain, and the rights and responsibilities that they sanction.
- (2) *Social and economic mobility* refers to the right of individuals to choose and to have the opportunities for choice available to them. It is a corollary to self-sufficiency. Social and economic mobility means that opportunities and incentives are available for people to seek out their own levels of social and economic fulfillment.
- (3) *Community or social well-being* is a value that encompasses many things. In essence, it refers to healthy social, economic, and physical environments that benefit the community as a whole. A sense of social responsibility, of caring for others and for the well-being of our community and of participating in social and political life, are important aspects of this concept. It further implies the aloha spirit—attitudes of tolerance, respect, cooperation and unselfish giving, within which Hawaii's society can progress.

One of the basic functions of our society is to enhance the ability of individuals and groups to pursue their goals freely, to satisfy basic needs and to secure desired socio-economic levels. The elements of choice and mobility within society's legal framework are fundamental rights. Society's role is to encourage conditions within which individuals and groups can approach their desired levels of self-reliance and self-determination. This enables people to gain confidence and self-esteem; citizens contribute more when they possess such qualities in a free and open society.

Government promotes citizen freedom, self-reliance, self-determination, social and civic responsibility and goals achievement by keeping order, by increasing cooperation among many diverse individuals and groups, and by fostering social and civic responsibilities that affect the general welfare. The greater the number and activities of individuals and groups, the more complex government's role becomes. The function of government, however, is to assist citizens in attaining their goals. Government provides for meaningful participation by the people in decision-making and for effective access to authority as well as an equitable sharing of benefits. Citizens have a responsibility to work with their government to contribute to society's improvement. They must also conduct their activities within an agreed-upon legal system that protects human rights.

**Sec. -4 State goals.** In order to guarantee those elements of choice and mobility that insure that individuals and groups may approach their desired

levels of self-reliance and self-determination, it shall be the goal of the State to achieve:

- (1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations.
- (2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.
- (3) Physical, social, and economic well-being, for individuals and families in Hawaii, that nourishes a sense of community responsibility, of caring and of participation in community life.

**Sec. -5 Objective and policies for population.** (a) It shall be the objective in planning for the State's population to guide population growth to be consistent with the achievement of physical, economic, and social objectives contained in this chapter.

(b) To achieve the population objective, it shall be the policy of this State to:

- (1) Manage population growth statewide in a manner that provides increased opportunities for Hawaii's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.
- (2) Encourage an increase in economic activities and employment opportunities on the Neighbor Islands consistent with community needs and desires.
- (3) Ensure that adequate support services and facilities are provided to accommodate the desired distribution of future growth throughout the State.
- (4) Promote increased opportunities for Hawaii's people to pursue their socio-economic aspirations throughout the islands.
- (5) Seek legislative and other means to manage the rate of migration of new residents to the State of Hawaii, in order that it may be consistent with the achievement of physical, economic, and social objectives contained in this chapter.
- (6) Foster an understanding of Hawaii's capacities to accommodate population needs.
- (7) Encourage federal actions that will promote a more balanced distribution of immigrants among the states provided that such actions do not prevent the reunion of immediate family members.
- (8) Pursue an increase in federal assistance for states with a greater proportion of foreign immigrants relative to their state's population.

**Sec. -6 Objectives and policies for the economy—in general.** (a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:

- (1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.

- (2) A growing and diversified economic base that is not overly dependent on a few industries.
- (b) To achieve the general economic objectives, it shall be the policy of this State to:
  - (1) Expand Hawaii's national and international marketing, communication, and organizational ties, to increase the State's capacity to adjust to and capitalize upon economic changes and opportunities occurring outside the State.
  - (2) Promote Hawaii as an attractive market for investment activities that benefit Hawaii's people.
  - (3) Seek broader outlets for new or expanded Hawaii business investments.
  - (4) Expand existing markets and penetrate new markets for Hawaii's products and services.
  - (5) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.
  - (6) Strive to achieve a sustained level of construction activity responsive to, and consistent with, state growth objectives.
  - (7) Encourage the formulation of marketing cooperatives to assist small scale producers, manufacturers, and distributors.
  - (8) Pursue more favorable marketing arrangements at the regional and local levels for Hawaii's export products.
  - (9) Encourage labor-intensive activities that are economically satisfying.
  - (10) Foster greater cooperation and coordination between the public and private sectors in solving Hawaii's employment problems.
  - (11) Promote economic activities, especially those which benefit areas with substantial unemployment problems.
  - (12) Maintain acceptable working conditions and standards for Hawaii's workers.
  - (13) Provide equal employment opportunities for all segments of Hawaii's population through affirmative action and anti-discrimination measures.
  - (14) Encourage businesses that have favorable financial multiplier effects within Hawaii's economy.
  - (15) Promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.

**Sec. -7 Objectives and policies for the economy—agriculture.**

- (a) Planning for the State's economy with regard to agriculture shall be directed towards achievement of the following objectives:
  - (1) Increased viability in sugar and pineapple industries.
  - (2) Continued growth and development of diversified agriculture throughout the State.
- (b) To achieve the agriculture objectives, it shall be the policy of this State to:
  - (1) Foster attitudes and activities conducive to maintaining agriculture as a major sector of Hawaii's economy.

- (2) Seek federal legislation that benefits Hawaii's agricultural industries.
- (3) Promote Hawaii's agricultural products locally, on the continental United States, and internationally.
- (4) Support research and development activities that provide greater efficiency and economic productivity in agriculture.
- (5) Enhance agricultural growth by providing public incentives and encouraging private initiatives.
- (6) Assure the availability of agriculturally suitable lands with adequate water to accommodate present and future needs.
- (7) Increase the attractiveness and opportunities for an agricultural education and livelihood.
- (8) Expand Hawaii's agricultural base by promoting growth and development of flowers, tropical fruits and plants, livestock, feed grains, forestry, food crops, aquaculture, and other potential enterprises.
- (9) Strengthen diversified agriculture by developing an effective marketing and distribution system between producer and consumer.
- (10) Promote economically competitive activities that increase Hawaii's agricultural self-sufficiency.
- (11) Promote and assist in the establishment of sound financial programs for diversified agriculture.

**Sec. -8 Objective and policies for the economy—visitor industry.**

(a) Planning for the State's economy with regard to the visitor industry shall be directed towards the achievement of the objective of a visitor industry that constitutes a major component of steady growth for Hawaii's economy.

(b) To achieve the visitor industry objective, it shall be the policy of this State to:

- (1) Assist in the overseas promotion of Hawaii's vacation attractions.
- (2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people.
- (3) Improve the quality of existing visitor destination areas.
- (4) Encourage greater cooperation between the public and private sectors in developing and maintaining well-designed and adequately serviced visitor industry and related developments.
- (5) Ensure that visitor facilities and destination areas are carefully planned and sensitive to existing neighboring communities and activities.
- (6) Develop the industry in a manner that will provide the greatest number of primary jobs and steady employment for Hawaii's people.
- (7) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the visitor industry.
- (8) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.
- (9) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values.

**Sec. -9 Objective and policies for the economy—federal expenditures.**

(a) Planning for the State's economy with regard to federal expenditures shall be

directed towards achievement of the objective of a stable federal investment base as an integral component of Hawaii's economy.

(b) To achieve the federal expenditures objective, it shall be the policy of this State to:

- (1) Encourage the sustained flow of federal expenditures in Hawaii that generates long-term government civilian employment.
- (2) Maintain Hawaii's supportive role in national defense.
- (3) Promote the future development of federally supported activities in Hawaii that respect statewide economic concerns, are sensitive to community needs, and minimize impacts on Hawaii's environment.
- (4) Increase opportunities for entry and advancement of Hawaii's people into federal government.
- (5) Encourage federal use of local commodities, services, and facilities available in Hawaii.
- (6) Strengthen federal-state-county communication and coordination in all federal activities that affect Hawaii.
- (7) Promote the return of federally controlled lands in Hawaii that are not required for the defense of the nation and the mutually beneficial exchanges of land between federal agencies, the state and the counties.

**Sec. -10 Objective and policies for the economy—potential growth activities.** (a) Planning for the State's economy with regard to potential growth activities shall be directed towards achievement of the objective of development and expansion of potential growth activities that serve to increase and diversify Hawaii's economic base.

(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

- (1) Encourage investment and employment in economic activities that have the potential for growth such as diversified agriculture, aquaculture, apparel and textile manufacturing, and energy and marine-related industries.
- (2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people.
- (3) Enhance Hawaii's role as a center for international trade, finance, services, technology, education, culture, and the arts.
- (4) Accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste.
- (5) Encourage the formulation of marketing cooperatives to assist small scale producers, manufacturers, and distributors.
- (6) Pursue more favorable marketing arrangements at the regional and local levels for Hawaii's export products.
- (7) Promote Hawaii's geographic, environmental, and technological advantages to attract new economic activities into the State.
- (8) Provide public incentives and encourage private initiative to attract new industries that will support Hawaii's social, economic, physical, and environmental objectives.

- (9) Generate new ocean-related economic activities in mining, food production, and scientific research.

**Sec. -11 Objectives and policies for the physical environment—land-based, shoreline, and marine resources.** (a) Planning for the State's physical environment with regard to land-based, shoreline, and marine resources shall be directed towards achievement of the following objectives:

- (1) Prudent use of Hawaii's land-based, shoreline, and marine resources.
- (2) Effective protection of Hawaii's unique and fragile environmental resources.
- (b) To achieve the land-based, shoreline, and marine resources objectives, it shall be the policy of this State to:
  - (1) Exercise an overall conservation ethic in the use of Hawaii's natural resources.
  - (2) Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.
  - (3) Take into account the physical attributes of areas when planning and designing activities and facilities.
  - (4) Encourage the beneficial use of statewide forest resources without generating costly or irreparable environmental damage.
  - (5) Consider multiple uses in watershed areas, provided such uses do not detrimentally affect water quality and recharge functions.
  - (6) Encourage the protection of rare or endangered plant and animal species and habitats native to Hawaii.
  - (7) Provide public incentives that encourage private actions to protect significant natural resources from degradation or unnecessary depletion.
  - (8) Pursue compatible relationships among activities, facilities, and natural resources, especially within shoreline areas.
  - (9) Promote greater accessibility and prudent use of the shoreline for public recreational, educational, and scientific purposes.

**Sec. -12 Objective and policies for the physical environment—scenic, natural beauty, and historic resources.** (a) Planning for the State's physical environment shall be directed towards achievement of the objective of enhancement of Hawaii's scenic assets, natural beauty, and multi-cultural/historical resources.

(b) To achieve the scenic, natural beauty, and historic resources objective, it shall be the policy of this State to:

- (1) Promote the preservation and restoration of significant natural and historic resources.
- (2) Provide incentives to maintain and enhance historic, cultural, and scenic amenities.
- (3) Promote the visual and aesthetic enjoyment of mountains, ocean vistas, scenic landscapes, and other natural features.
- (4) Protect those special areas, structures, and elements that are an integral and functional part of Hawaii's ethnic and cultural heritage.

- (5) Encourage the design of developments and activities that complement the natural beauty of the islands.

**Sec. -13 Objectives and policies for the physical environment—land, air, and water quality.** (a) Planning for the State's physical environment with regard to land, air, and water quality shall be directed towards achievement of the following objectives:

- (1) Maintenance and pursuit of improved quality in Hawaii's land, air, and water resources.
- (2) Greater public awareness and appreciation of Hawaii's environmental resources.
- (b) To achieve the land, air, and water quality objectives, it shall be the policy of this State to:
  - (1) Foster educational activities that promote a better understanding of Hawaii's limited environmental resources.
  - (2) Promote the proper management of Hawaii's land and water resources.
  - (3) Promote effective measures to achieve desired quality in Hawaii's surface, ground, and coastal waters.
  - (4) Encourage actions to maintain or improve aural and air quality levels to enhance the health and well-being of Hawaii's people.
  - (5) Reduce the threat to life and property from erosion, flooding, tsunamis, earthquakes, and other natural or man-induced hazards and disasters.
  - (6) Encourage design and construction practices that enhance the physical qualities of Hawaii's communities.
  - (7) Encourage urban developments in close proximity to existing services and facilities.
  - (8) Foster recognition of the importance and value of the land, air, and water resources to Hawaii's people and their cultures.

**Sec. -14 Objective and policies for facility systems—in general.** (a) Planning for the State's facility systems in general shall be directed towards achievement of the objective of water, transportation, waste disposal, and utility systems that support statewide social, economic, and physical objectives.

(b) To achieve the general facility systems objective, it shall be the policy of this State to:

- (1) Accommodate the needs of Hawaii's people through improvement priorities established through the planning process.
- (2) Encourage flexible service delivery systems that can adapt to changing public demands and priorities.
- (3) Ensure that required facility systems can be supported within resource capacities and at reasonable cost to the user.

**Sec. -15 Objectives and policies for facility systems—solid and liquid wastes.** (a) Planning for the State's facility systems with regard to solid and liquid wastes shall be directed towards the achievement of the following objectives:

- (1) Maintenance of basic public health and sanitation standards relating to treatment and disposal of solid and liquid wastes.
- (2) Adequate sewer infrastructure facilities for physical and economic ac-



tivities that alleviate problems in housing, employment, mobility, and other areas.

(b) To achieve solid and liquid waste objectives, it shall be the policy of this State to:

- (1) Encourage the adequate development of sewer systems that complement planned growth.
- (2) Encourage re-use and recycling to reduce solid and liquid wastes and develop a conservation ethic.
- (3) Promote research to develop more efficient and economical treatment and disposal of solid and liquid wastes.

**Sec. -16 Objective and policies for facility systems—water.** (a) Planning for the State's facility systems with regard to water shall be directed towards achievement of the objective of the provision of water to adequately accommodate domestic, agricultural, commercial, industrial, recreational, and other needs within resource capacities.

(b) To achieve the facility systems water objective, it shall be the policy of this State to:

- (1) Relate growth activities to existing and potential water supply.
- (2) Support research and development of alternative water sources.
- (3) Reclaim and encourage the productive use of runoff water and waste water discharges.
- (4) Assist in improving the quality, efficiency, service, and storage capabilities of water systems for domestic and agricultural use.
- (5) Support water supply services to areas experiencing critical water problems.
- (6) Promote water conservation practices.

**Sec. -17 Objectives and policies for facility systems—transportation.** (a) Planning for the State's facility systems with regard to transportation shall be directed towards the achievement of the following objectives:

- (1) An integrated multi-modal transportation system that services statewide needs and promotes the efficient, economical, safe, and convenient movement of people and goods.
- (2) A statewide transportation system consistent with planned growth objectives throughout the State.

(b) To achieve the transportation objectives, it shall be the policy of this State to:

- (1) Design, program, and develop a multi-modal system in conformance with desired growth and physical development as stated in this chapter.
- (2) Coordinate state, county, federal, and private transportation activities and programs toward the achievement of statewide objectives.
- (3) Encourage a reasonable distribution of financial responsibilities for transportation among participating governmental and private parties.
- (4) Provide for improved accessibility to shipping, docking, and storage facilities.
- (5) Promote a reasonable level and variety of mass transportation services that adequately meet statewide and community needs.

- (6) Encourage the use of transportation systems that serve as a means of accommodating present and future development needs of communities.
- (7) Promote a variety of carriers to offer increased opportunities and advantages to inter-island movement of people and goods.
- (8) Increase the capacities of airport and harbor systems and support facilities to effectively accommodate transshipment and storage needs.
- (9) Increase the ability of transportation systems to assist statewide economic growth and diversification.
- (10) Encourage the design and development of transportation systems sensitive to the needs of affected communities and the quality of Hawaii's natural environment.
- (11) Encourage safe and convenient use of low-cost, energy-efficient, non-polluting means of intra-island transportation.

**Sec. -18 Objectives and policies for facility systems—energy/utilities.**

(a) Planning for the State's facility systems with regard to energy/utilities shall be directed towards the achievement of the following objectives:

- (1) Dependable, efficient, and economical statewide energy and communication systems capable of supporting the needs of the people.
- (2) Increased energy self-sufficiency.
- (b) To achieve the energy/utilities objectives, it shall be the policy of this

State to:

- (1) Accelerate research development and use of new energy sources.
- (2) Provide adequate, reasonably priced, and dependable power and communication services to accommodate demand.
- (3) Ensure a sufficient supply of energy to enable power systems to support the demands of growth.
- (4) Promote prudent use of power and fuel supplies through education, conservation, and energy-efficient practices.
- (5) Ensure that the development or expansion of power systems and sources adequately consider environmental, public health, and safety concerns, and resource limitations.
- (6) Promote the use of new energy sources.
- (7) Facilitate the development and use of improved communications technology.

**Sec. -19 Objectives and policies for socio-cultural advancement—housing.** (a) Planning for the State's socio-cultural advancement with regard to housing shall be directed towards achievement of the following objectives:

- (1) Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, livable homes located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals.
- (2) The orderly development of residential areas sensitive to community needs and other land uses.
- (b) To achieve the housing objectives, it shall be the policy of this State to:
- (1) Effectively accommodate the housing needs of Hawaii's people, es-

pecially the elderly, handicapped, displacees of redevelopment areas, and newly formed households.

- (2) Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.
- (3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.
- (4) Promote appropriate improvement, rehabilitation, and maintenance of existing housing.
- (5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.
- (6) Facilitate the use of available urban lands to accommodate the housing needs in various communities.
- (7) Foster a variety of lifestyles traditional to Hawaii through the design and maintenance of neighborhoods that reflect the culture and values of the community.

**Sec. -20 Objectives and policies for socio-cultural advancement—health.** (a) Planning for the State's socio-cultural advancement with regard to health shall be directed towards achievement of the following objectives:

- (1) Fulfillment of basic individual health needs of the general public.
- (2) Maintenance of sanitary and environmentally healthful conditions in Hawaii's communities.
- (b) To achieve the health objectives, it shall be the policy of this State to:
  - (1) Provide adequate and accessible services and facilities for prevention and treatment of physical and mental health problems.
  - (2) Provide effective short-term and long-term assistance to prevent, alleviate, or cope with mental health problems of individuals and families.
  - (3) Encourage improved cooperation among public and private sectors in the provision of health care to accommodate the total health needs of individuals throughout the State.
  - (4) Foster an awareness of the need for personal health maintenance and preventive health care through education and other measures.
  - (5) Provide services and activities that ensure sanitary conditions.

**Sec. -21 Objective and policies for socio-cultural advancement—education.** (a) Planning for the State's socio-cultural advancement with regard to education shall be directed towards achievement of the objective of the provision of a variety of educational opportunities to enable individuals to fulfill their needs, responsibilities, and aspirations.

- (b) To achieve the education objective, it shall be the policy of this State to:
  - (1) Support educational programs and activities that enhance personal development, physical fitness, recreation, and cultural pursuits of all groups.
  - (2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

- (3) Increase the ability of education to promote an understanding of Hawaii's cultural heritage.
- (4) Provide job preparation training for groups experiencing critical unemployment conditions.
- (5) Provide higher educational opportunities that enable Hawaii's people to adapt to changing employment demands.
- (6) Assist individuals, especially those who are disadvantaged in meeting job qualifications, through manpower and other related training opportunities.
- (7) Promote programs and activities that facilitate the acquisition of basic skills, such as reading, writing, computing, listening, speaking, and reasoning.
- (8) Emphasize quality educational programs in Hawaii's institutions to promote academic excellence.
- (9) Support research programs and activities that enhance the education programs of the State.

**Sec. -22 Objective and policies for socio-cultural advancement—social services.** (a) Planning for the State's socio-cultural advancement with regard to social services shall be directed towards the achievement of the objective of improved public and private social services and activities that induce greater individual, family, and group initiative, self-reliance, and self-esteem.

(b) To achieve the social service objective, it shall be the policy of the State to:

- (1) Provide adequate services, facilities, and resources within the State's fiscal capacities to assist in alleviating hardship conditions of Hawaii's people.
- (2) Promote coordination and integration of public and private services and programs that enable individuals, families, and groups to deal effectively with social problems and to enhance their participation in society.
- (3) Facilitate the adjustment of new residents into Hawaii's communities.

**Sec. -23 Objective and policies for socio-cultural advancement—leisure.** (a) Planning for the State's socio-cultural advancement with regard to leisure shall be directed towards the achievement of the objective of the adequate provision of resources to accommodate diverse cultural, artistic, and recreational needs for present and future generations.

(b) To achieve the leisure objective, it shall be the policy of this State to:

- (1) Foster and preserve Hawaii's multi-cultural heritage through supportive programs and activities.
- (2) Provide a wide range of activities and facilities to fulfill the recreation needs of all diverse and special groups.
- (3) Enhance the enjoyment of recreational experiences through safety measures, educational opportunities, and improved facility design and maintenance.
- (4) Promote the recreational and educational potential of natural resources having scenic, open space, cultural, historical, geological, or

biological values.

- (5) Ensure opportunities for everyone to use and enjoy Hawaii's recreational resources.
- (6) Assure the availability of sufficient resources to provide for future recreational needs.
- (7) Provide adequate and accessible physical fitness programs to promote the physical and mental well-being of Hawaii's people.
- (8) Increase opportunities for appreciation and participation in the creative arts, including the literary, theatrical, and musical arts.
- (9) Encourage the development of creative expression in the artistic disciplines to enable all segments of Hawaii's population to participate in the creative arts.

**Sec. -24 Objective and policies for socio-cultural advancement—individual rights and personal well-being.** (a) Planning for the State's socio-cultural advancement with regard to individual rights and personal well-being shall be directed towards achievement of the objective of an increased individual capacity to fulfill personal socio-economic needs and aspirations.

(b) To achieve the individual rights and personal well-being objective, it shall be the policy of this State to:

- (1) Provide effective services and activities that protect individuals from criminal acts and unfair practices and that foster a safe and secure environment.
- (2) Enhance and protect the national and state constitutional rights of every individual.
- (3) Assure access to, and availability of, legal assistance, consumer protection, and other social justice services.
- (4) Ensure equal opportunities for individual participation in society.

**Sec. -25 Objective and policies for socio-cultural advancement—culture.** (a) Planning for the State's socio-cultural advancement with regard to culture shall be directed toward the achievement of the objective of enhancement of cultural identities, traditions, values, customs, and arts of Hawaii's people.

(b) To achieve the culture objective, it shall be the policy of this State to:

- (1) Foster increased knowledge and understanding of Hawaii's ethnic and cultural heritages and the history of Hawaii.
- (2) Support activities and conditions that promote cultural values, customs, and arts that enrich the life styles of Hawaii's people.
- (3) Encourage increased awareness of the effects of proposed public and private actions on life styles in Hawaii.
- (4) Encourage the essence of the aloha spirit in people's daily activities.

**Sec. -26 Objectives and policies for socio-cultural advancement—public safety.** (a) Planning for the State's socio-cultural advancement with regard to public safety shall be directed towards the achievement of the following objectives:

- (1) Assurance of public safety and adequate protection of life and property for all people.

- (2) Maintenance of adequate levels of statewide security, communication, and preparedness in case of civil disruptions, wars, natural disasters, and other major disturbances.
- (3) Promotion of a sense of community responsibility for the welfare and safety of Hawaii's people.
- (b) To achieve the public safety objectives, it shall be the policy of this State

to:

- (1) Support law enforcement programs aimed at curtailing criminal activities.
- (2) Develop coordinated management programs for public safety and criminal justice throughout the State.
- (3) Ensure that public safety programs are effective and responsive to community needs.
- (4) Encourage increased community awareness and participation in public safety programs.
- (5) Emphasize improvement in social rehabilitation programs and facilities throughout the State.
- (6) Ensure that responsible organizations are in a proper state of readiness to respond to major war-related or natural disasters and civil disturbances at all times.

**Sec. -27 Objective and policies for socio-cultural advancement—government.** (a) Planning the State's socio-cultural advancement with regard to government shall be directed towards the achievement of the objectives of efficient, effective, and responsive government services at all levels in the State of Hawaii.

(b) To achieve the government objective, it shall be the policy of this State to:

- (1) Provide for necessary public goods and services not assumed by the private sector.
- (2) Pursue an openness and responsiveness in government that permits the flow of public information, interaction, and response.
- (3) Ensure fiscal responsibility in government in Hawaii.
- (4) Minimize the size of government to that necessary to be effective.
- (5) Stimulate the responsibility in citizens to productively participate in government for a better Hawaii.
- (6) Assure that public attitudes, actions, and services are sensitive to community needs and concerns.

**Sec. -28 Objective and policies for fiscal management—government.** (a) Planning the State's fiscal management with regard to government shall be directed towards the objective of ensuring fiscal integrity, responsibility, and efficiency in the state government and county governments.

(b) To achieve the government objective, it shall be the policy of this State to:

- (1) Provide for a balanced fiscal budget.
- (2) Improve the fiscal budgeting and management system of the State.
- (3) Promote the consolidation of state and county governmental functions

to minimize the ineffective and inefficient delivery of government programs and services.

## **PART II. PLANNING COORDINATION AND IMPLEMENTATION**

**Sec. -51 Purpose.** The purpose of this part is to establish a statewide planning system to coordinate all major state and county activities and to implement the overall theme, goals, objectives, policies, and priority directions.

**Sec. -52 Statewide planning system.** (a) The statewide planning system shall consist of the following policies, plans, and programs:

- (1) The overall theme, goals, objectives, and policies established in this chapter shall provide the broad guidelines for the State.
- (2) The priority directions established in this chapter shall provide direction for decision-making by the state and the counties for the immediate future and set priorities for the allocation of resources. Conformance with the priority directions shall be demonstrated in the formulation, amendment, and implementation of state functional plans, county general plans and development plans, and state programs.
- (3) State functional plans shall be prepared for, but not limited to, the areas of agriculture, conservation lands, education, energy, higher education, health, historic preservation, housing, recreation, tourism, transportation, and water resources development. State functional plans shall define, implement, and be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter. County general plans and development plans shall be used as a basis in the formulation of state functional plans.
- (4) County general plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. County general plans or development plans shall further define, implement, and be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter. State functional plans which have been adopted by concurrent resolution by the legislature shall be utilized as guidelines in amending the county general plans to be in conformance with the overall theme, goals, objectives, and priority directions.
- (5) State programs shall include, but not be limited to, those programs involving coordination and review; research and support; design, construction, and maintenance; services; and regulatory powers. State programs that exercise coordination and review functions shall include, but not be limited to, the state clearinghouse process, capital improvements program, and coastal zone management program. State programs that exercise regulatory powers in resource allocation shall include, but not be limited to, the land use and management programs administered by the land use commission and the board of land and natural resources. State programs shall further define, implement, and

be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter.

(b) The statewide planning system shall also consist of several implementation mechanisms:

- (1) The overall review, coordination, and evaluation process. The overall review, coordination, and evaluation shall be conducted by the policy council, with the assistance of the department.
- (2) The budgetary and land use decision-making processes. The budgetary and land use decision-making processes shall consist of:
  - (A) Program appropriations process. The appropriation of funds for major programs under the biennial and supplemental budgets, shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter.
  - (B) Capital improvement project appropriations process. The appropriation of funds for major plans and projects under the capital improvements program shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter.
  - (C) Budgetary review process of the department of budget and finance. The budgetary review and allocation process of the department of budget and finance shall be in conformance with the provisions of this chapter.
  - (D) Decision-making process of the state land use commission. The decisions made by the land use commission shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter. The rules and regulations adopted by the land use commission to govern land use decision-making shall be in conformance with the provisions of this chapter.
  - (E) Decision-making process of the board of land and natural resources. The decisions made by the board of land and natural resources shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter. The rules and regulations adopted by the board of land and natural resources to govern land use decision-making shall be in conformance with the provisions of this chapter.
- (3) Other coordination processes include the use of the A-95 state clearinghouse process. The state clearinghouse shall coordinate the review of all projects requiring federal funding and shall notify the policy council of all proposed federal projects which conflict with this chapter, any functional plan adopted under this chapter, or any county



general plans or development plans which are in conformance with the provisions of this chapter.

**Sec. -53 Policy council; composition; voting rights.** (a) There is established a policy council whose membership shall include the following:

- (1) The planning director from each county.
- (2) Nine public members, being four from the city and county of Honolulu, one from the county of Kauai, and two from each of the counties of Maui and Hawaii, provided that in the case of the county of Maui, one such public member shall be from Molokai or Lanai and, in the case of the county of Hawaii, one public member shall be from west Hawaii and one from east Hawaii, appointed by the governor from a list of public persons from each county nominated by the respective mayor, with the advice and consent of the council of the respective county, who shall submit no less than three names for each appointive public member to which the county is entitled.
- (3) The directors or chairmen from the departments of agriculture, budget and finance, planning and economic development, land and natural resources, health, social services and housing, transportation, and labor and industrial relations; from the office of environmental quality control; the superintendent of education; the president of the University of Hawaii; the executive director of the Hawaii housing authority; and the executive officer of the land use commission.

The director of the department of planning and economic development shall serve as chairman of the council.

The terms of the nine members from the public shall be for four years; provided, that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each such term shall commence on January 1 and expire on December 31; provided, that the governor may establish the commencing and expiration dates of the terms of those initially appointed. No member from the public shall be appointed consecutively to more than two terms; provided, that membership shall not exceed eight consecutive years. No member from the public shall serve on any other public board or commission. The governor may remove or suspend for cause any member of the council after due notice and public hearing.

Expenses incurred by a state governmental member participating in policy council deliberations shall be borne by his respective governmental agency. Travel expenses incurred by planning directors participating in policy council deliberations shall be reimbursed by the department of planning and economic development. A public member shall receive no compensation for his services, but each shall be reimbursed by the department of planning and economic development for necessary expenses incurred in the performance of his duties.

(b) There shall be a total of eighteen voting members on the policy council. The voting rights shall be apportioned as follows:

- (1) The planning director from each county shall each be entitled to one vote;

- (2) The nine members from the public shall each be entitled to one vote; and
- (3) The chairman of the council and four of the state agency heads herein described shall each be entitled to one vote.

The governor, in consultation with the director of the department of planning and economic development, shall determine which of the other state agency heads described herein shall have voting rights on the basis of the subject matter or functional area before the policy council. The governor may also rotate the voting rights among those state agency heads deemed most affected by the nature of the subject matter or functional area before the policy council; provided that the state agency heads shall not cast more than five votes on any one issue before the policy council. State agency heads who are not entitled to vote upon a given subject or functional area shall serve as ex-officio members of the policy council.

(c) All recommendations made to the legislature by the policy council shall be approved by two-thirds of its voting members, which shall not preclude minority reports.

**Sec. -54 Policy council; duties.** The policy council shall:

- (1) Provide a forum for the discussion of conflicts between and among this chapter, functional plans either adopted by the legislature or to be submitted to the legislature for adoption, county general plans and development plans, and state programs;
- (2) Transmit to the governor, legislature, and the mayors and legislative bodies of the respective counties its findings and recommendations on all conflicts as described above, and on the resolution of conflicts;
- (3) Review and evaluate state functional plans for conformance with the provisions of this chapter, seek to resolve any identified conflicts, and transmit its findings and recommendations to the legislature at the time of submittal of the functional plan;
- (4) Advise the legislature on the administration, amendment, and review of this chapter, including the overall theme, goals, objectives, policies, and priority directions contained within this chapter;
- (5) Prepare guidelines for the development of the state functional plans in accordance with sections -57 and -58;
- (6) Adopt rules in accordance with section -56 to provide procedures for public input into the amendment processes and for submittal of proposed amendments;
- (7) Maintain a record of its activities;
- (8) Conduct a comprehensive review of Part I of this chapter at least every four years following enactment by the legislature, and Part III of this chapter at least every odd-numbered year to coincide with the state budget process commencing in 1981; and
- (9) Prepare an annual review and report to the legislature in accordance with section -63.

**Sec. -55 Department of planning and economic development; duties.** The department shall provide assistance and staff services to the policy council in administering this chapter. To further the intent and purpose of this chapter, the

department shall:

- (1) Provide recommendations to the policy council on conflicts between and among this chapter, state functional plans either adopted by the legislature or to be submitted to the legislature for adoption, county general plans and development plans, and state programs;
- (2) Review and evaluate this chapter and recommend amendments as needed to the policy council;
- (3) Review, as necessary, major plans, programs, projects, and regulatory activities proposed by state and county agencies, and provide advisory opinions and reports to the policy council as needed;
- (4) Analyze existing state policies, planning and program operations, laws, rules and practices relative to formulation, implementation, and coordination of the state plan;
- (5) Review state capital improvement projects for consistency with this chapter and report findings and recommendations to the governor prior to allocation of funds;
- (6) Conduct special studies and prepare reports that address major policy issues relating to statewide growth and development;
- (7) Cooperate with all public agencies to ensure an ongoing, uniform, and reliable base of data and projections;
- (8) Assist the policy council in conducting a comprehensive review of Part I of this chapter at least every four years following enactment by the legislature, and Part III of this chapter at least every odd-numbered year commencing in 1981;
- (9) Assist the policy council in preparing and submitting an annual review and report to the legislature in accordance with section -63;
- (10) Prepare and adopt in consultation with the policy council, administrative guidelines in accordance with this chapter and chapter 91 by June 30, 1979; and
- (11) Provide other technical assistance and staff services to the policy council as needed.

The department may contract with public and private agencies and persons for special research and planning assistance.

**Sec. -56 Amendments to the overall theme, goals, objectives, policies, and priority directions.** The policy council shall promulgate rules for amendments to the goals, objectives, policies, and priority directions, subject to the following provisions:

- (a) Any person may submit to the department proposals for the revision of the overall theme, goals, objectives, policies, and priority directions;
- (b) The department shall review the proposed amendments to the overall theme, goals, objectives, policies, and priority directions and shall submit its findings and recommendations to the policy council;
- (c) The policy council shall submit its final recommendations on the amendments to the overall theme, goals, objectives, policies, and priority directions to the legislature thirty days prior to the convening of the next legislative session following its review of the proposed

amendments, along with minority reports, if any; and

- (d) The policy council, in reviewing the proposed amendments of the department, shall make public its findings and recommendations and shall hold public hearings in each county of the State in accordance with chapter 91. There shall be not less than two public hearings in each county on the recommended revisions to the overall theme, goals, objectives, and policies of the state plan; provided that there shall be not less than three public hearings in the city and county of Honolulu and there shall be not less than one public hearing on each of the islands of Maui, Molokai, and Lanai in the county of Maui.

**Sec. -57 Functional plans; preparation.** (a) The state agency head primarily responsible for a given functional area shall prepare the functional plan for the area. In the preparation of the functional plan, the state agency head shall work in close cooperation with the advisory committee, respective officials, and people of each county. In the formulation of the functional plan, the preparing agency shall solicit public views and concerns. The formulation and amendment of a state functional plan shall conform to the state plan and use as a basis the county general plans. Functional plans and any amendments thereto shall be adopted by the legislature by concurrent resolution and shall, upon adoption, provide direction to state and county agencies, provided that in the event of a conflict between the proposed functional plan and general plan of a county, every effort shall be made to determine which of the matters in conflict has the greater merit and recommend modifications by the appropriate state or county agency to the proposed functional plan or county general plan. Where such accord cannot be achieved, the policy council shall prepare a report to the legislature citing the differences and the justification for each of the conflicting positions together with recommendation. Minority reports, if any, may be submitted to the legislature.

(b) The functional plan shall contain objectives to be achieved and policies to be pursued in the primary field of activity and such policies shall address major programs and the location of major facilities. The functional plan shall also contain implementation priorities and actions which may include, but not be limited to, programs, maps, regulatory measures, standards, and interagency coordination provisions.

(c) For each functional plan, the governor shall establish an advisory committee, where a committee which meets the criteria set out hereunder is not already in existence, whose membership shall be composed of at least one public official from each county to be appointed from a list of four such officials submitted by the mayor of each county; members of the public; experts in the field for which a functional plan is being prepared; and state officials. The committee shall advise the state agency in preparing a functional plan to be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter. The functional plan, with any recommendations of the advisory committee including minority reports, if any, shall be submitted to the policy council for review and evaluation. The advisory committee shall serve until the respective functional plan is adopted by the legislature.

**Sec. -58 Functional plans; form and submittal.** (a) Functional plans

shall be prepared to implement the goals, objectives, policies, and priority directions contained within this chapter and policy council guidelines developed pursuant to this chapter.

(b) A functional plan shall be submitted to the policy council for review and evaluation at least ninety days prior to the date designated for submittal to the legislature. The policy council shall submit findings and recommendations to the legislature on each functional plan reviewed.

(c) The functional plans for agriculture, housing, tourism, and transportation, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1979 legislature. The functional plans for conservation lands, education, energy, higher education, health, historic preservation, recreation, and water resources development, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1980 legislature.

(d) Upon receipt by the legislature of a functional plan as submitted by the policy council, with recommendations of the preparing state agency, the legislature shall review, modify, and as appropriate, adopt the functional plan by concurrent resolution.

(e) If the legislature fails to adopt such functional plan by concurrent resolution, it shall revert to the state agency of origin for revision and be resubmitted thirty days prior to the convening of the next legislature.

**Sec. -59 Functional plans; implementation.** (a) Functional plans shall not be used as a guide or to implement state policy unless said plans shall have been approved by the legislature.

(b) The legislature, upon a finding of overriding statewide concern, may determine in any given instance that the site for a specific project may be other than that designated on the county general plan; provided however, that any proposed facility or project contained in a county general plan shall not require the actual development or implementation of said facility or project or the inclusion of the same in any state functional plan by any state agency. The implementation of functional plans shall conform to existing laws, rules, and standards, and the provisions of this chapter.

**Sec. -60 Programs and projects; receipt of federal funds.** The failure of the legislature to adopt a functional plan by concurrent resolution, or any amendment thereto, shall not be construed in any manner that would jeopardize the receipt of federal funds, or to prevent the implementation and performance of programs and projects for which state funds have been appropriated.

**Sec. -61 County general plans; preparation.** (a) The county general plans and development plans shall be formulated with input from the state and county agencies as well as the general public.

County general plans or development plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. The county general plans or development plans shall further define and implement applicable provisions of this chapter provided that any amendment to the county

general plan of each county shall not be contrary to the county charter. The formulation, amendment, and implementation of county general plans or development plans shall utilize as guidelines, statewide objectives, policies, and programs stipulated in state functional plans adopted in consonance with this chapter.

(b) County general plans shall be formulated on the basis of sound rationale, data, analyses, and input from state and county agencies and the general public, and contain objectives and policies as required by the charter of each county. Further, the county general plans should:

- (1) Contain objectives to be achieved and policies to be pursued with respect to population density, land use, transportation system location, public and community facility locations, water and sewage system locations, visitor destinations, urban design and all other matters necessary for the coordinated development of each county and regions within each county.
- (2) Contain implementation priorities and actions to carry out policies to include but not be limited to, land use maps, programs, projects, regulatory measures, standards and principles and interagency coordination provisions.

(c) The county general plans and development plans shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained in this chapter by January, 1982.

**Sec. -62 State programs.** (a) State programs shall be in conformance with this chapter. The formulation, administration, and implementation of state programs shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter, and the state functional plans adopted pursuant to this chapter.

(b) The director of the department of planning and economic development shall assist the governor in assuring that state programs are in conformance with this chapter.

**Sec. -63 Annual review and report.** (a) The policy council, with the assistance of the department shall prepare an annual report for submittal to the legislature, mayors, and county councils. The annual report shall contain recommendations for legislative consideration and action. Major components of the annual review and report shall include the following:

- (1) An assessment of progress being made in attaining the overall theme, goals, objectives, policies, and priority directions contained within this chapter and the state functional plans;
- (2) Recommendations to further implement this chapter and to improve coordination between and among the overall theme, goals, objectives, policies, and priority directions contained within this chapter, county general plans and development plans, state functional plans, and state programs; and
- (3) An assessment of legislation and programs of the preceding calendar year that have major statewide or countywide impact in terms of their consistency with this chapter.

(b) Prior to the submittal of the annual report to the legislature and the counties, the department shall hold public informational meetings in each county of the State, provided that in the county of Maui there shall be at least one public hearing on Lanai and Molokai.

(c) The annual review and report shall be submitted to the legislature, mayors, and the county councils no later than February 1 of each year.

### PART III. PRIORITY DIRECTIONS

**Sec. -101 Purpose.** The purpose of this part is to establish an overall priority direction and implementing actions to address areas of statewide concern.

**Sec. -102 Overall direction.** The State of Hawaii shall strive to ensure the availability of desired employment opportunities for Hawaii's present and future population in an environmentally and socially sound manner through the fostering of a balanced population and economic growth rate.

**Sec. -103 Economic implementing actions.** (a) Priority actions in the area of general business and finance:

- (1) Stimulate the economy to provide needed jobs for Hawaii's people without stimulating unnecessary in-migration.
- (2) Support business expansion and development to achieve a stable and diversified economy.
- (3) Seek different means to assist new and existing businesses in obtaining loans.
- (4) Assist in the development and commercialization of technological advancements.
- (5) Assist local producers in competing with mainland producers.
- (6) Lessen the financial burden on businesses.
- (7) Promote Hawaii as an attractive market for investment activities that benefit Hawaii's people.
- (b) Priority actions for the visitor industry:
  - (1) Foster a social environment which enhances the Aloha Spirit by minimizing inconveniences to Hawaii's people and visitors.
  - (2) Protect the economic health and quality of the visitor industry.
  - (3) Maintain or enhance the quality of existing and future hotels and resort destination areas which conform with regional carrying capacities and state policies providing for adequate shoreline setbacks and beach access.
  - (4) Provide incentives to encourage existing hotel owners to upgrade, repair and maintain visitor facilities.
  - (5) Preserve and enhance Hawaii's significant natural environmental and scenic, historic, and cultural sites.
  - (6) Develop and maintain career opportunities in the visitor industry for Hawaii's people, with emphasis on managerial positions.
  - (7) Adopt a tourism functional plan and management organization to implement tourism plan policies.
  - (8) Coordinate effective tourism promotion abroad.

- (9) Maintain and enhance visitor satisfaction.
- (10) Maintain and encourage a more favorable resort investment climate consistent with the objectives of this chapter.
- (11) Support law enforcement activities that provide a safer environment for both visitors and residents alike.
- (c) Priority actions for the sugar and pineapple industries:
  - (1) Provide adequate agricultural lands to ensure the economic viability of the sugar and pineapple industries.
  - (2) Continue efforts to maintain federal support to provide stable sugar prices high enough to allow profitable operations in Hawaii.
  - (3) Support research and development, as appropriate, to improve the quality and production of sugar and pineapple crops.
- (d) Priority actions for diversified agriculture and aquaculture:
  - (1) Seek to protect prime agricultural and aquacultural lands through affirmative and comprehensive programs.
  - (2) Seek federal assistance to increase water supply and to improve transmission, storage, and irrigation facilities to promote diversified agriculture and aquaculture.
  - (3) Assist small independent farmers in securing land and loans.
  - (4) Assist in the formation and operation of production and marketing associations and cooperatives to reduce production and marketing costs.
  - (5) Encourage and assist with the development of a waterborne and air-borne freight and cargo system capable of meeting the needs of Hawaii's agricultural community.
  - (6) Encourage the use of public and private resources to develop agricultural and aquacultural activities which have economic growth potential.
  - (7) Explore new agricultural industries and encourage the expansion of existing agricultural industries that can provide jobs and profitable long-term use of land.
  - (8) Seek favorable freight rates for Hawaii's agricultural products from interisland and overseas transportation operators.
  - (9) Continue the development of agricultural parks.
  - (10) Expand vocational training programs in agriculture and aquaculture.
  - (11) Assist in providing adequate, reasonably priced water for existing agricultural activities.
  - (12) Require agricultural uses in agricultural subdivisions and closely monitor the uses in these subdivisions.
  - (13) Encourage the expansion of the statewide agricultural base through the promotion of products for export and local consumption.
- (e) Priority action for developing economic activities to encourage the development of industries which promise long-term growth potentials and which have the following characteristics:
  - (1) An industry that can take advantage of Hawaii's unique location and available manpower resources.



- (2) A clean industry that would have minimal effects on Hawaii's environment.
- (3) An industry that is willing to hire and train Hawaii's people to meet the industry's labor needs.
- (4) An industry that would provide reasonable income and steady employment.
- (f) Priority actions for the construction industry:
  - (1) Promote a consistent and stable level of construction activity.
  - (2) Explore alternatives for more effective management of the growth and development of the State's construction industry.
  - (3) Encourage the streamlining of the building and development permit and review process.
- (g) Priority action for the shipping industry shall be to continue to seek legislation to protect Hawaii from shipping interruptions between Hawaii and the continental United States.
- (h) Priority actions for water use and development:
  - (1) Encourage water conservation to reduce the per capita water consumption rate through education and the promotion of conservation awareness.
  - (2) Assist agriculture in determining the feasibility of using wastewater effluent to irrigate crops.
  - (3) Encourage restriction of new urban development in areas where water supply is insufficient for both agricultural and domestic uses.
  - (4) Pursue the improvement of irrigation technology to increase the effective and efficient use of water.
  - (5) Increase the support for research and development of alternative water sources.
- (i) Priority actions for energy use and development:
  - (1) Encourage the development of alternate energy sources.
  - (2) Encourage development of a program to promote conservation of energy use in the State.
  - (3) Encourage future urbanization into easily serviceable, more compact, concentrated developments in existing urban areas wherever feasible to maximize energy conservation.
  - (4) Encourage consumer education programs to reduce energy waste and to increase awareness for the need to conserve energy.
  - (5) Encourage the use of energy conserving technology and appliances in homes and other buildings.
  - (6) Explore possible incentives to encourage the use of alternate energy sources in homes and other buildings.
  - (7) Encourage the development and use of energy and cost-efficient transportation systems.
- (j) Priority actions for manpower training and development:
  - (1) Encourage more effective career counseling and guidance in high schools and post-secondary institutions to inform students of present and future career opportunities.

- (2) Encourage the allocation of educational resources to career areas where high employment growth is expected.
- (3) Encourage the expansion of technological research to assist industry development.
- (4) Pursue the establishment of Hawaii's university as the research and training center of the Pacific.

**Sec. -104 Population growth and distribution implementing actions.** (a) Priority actions to effect desired statewide growth:

- (1) Manage population growth rates throughout the State consistent with available and planned resource capacities.
  - (2) Encourage hiring of Hawaii's people by firms doing business in the State.
  - (3) Seek federal legislation which would provide federal moneys for social programs, training, housing, and public services to each state proportionate to the number of immigrants received by the state.
  - (4) Seek to provide for adequate housing to meet the needs of Hawaii's people without encouraging an additional influx of people.
  - (5) Encourage continued low birth rate among Hawaii's population.
- (b) Priority actions to influence statewide growth distribution:
- (1) Manage a growth rate for Hawaii's economy that will parallel future employment needs for Hawaii's people.
  - (2) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographical area.
  - (3) Encourage the location of state and federal agencies on neighbor islands, as appropriate.
  - (4) Encourage major state investments to promote economic development and private investment to the neighbor islands, as appropriate.
  - (5) Encourage CIP expenditures, public services, and housing developments that recognize the needs and preferences of the counties.
  - (6) Explore the possibility of making available urban land, low-interest loans, and housing subsidies to encourage selective economic and population growth on the neighbor islands.
  - (7) Seek federal funds and other funding sources outside the state for research, program development, and training to provide future employment opportunities on the neighbor islands.
- (c) Priority actions for regional growth distribution:
- (1) Pursue rehabilitation of appropriate urban areas.
  - (2) Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures. Secondly, encourage urban growth away from areas where other important benefits are present, such as protection of valuable agricultural land or preservation of life styles.
  - (3) In order to preserve green belts, give priority to state capital expenditures that encourage locating urban development within existing urban areas in accordance with the following: funding for transportation

activities that serve the needs of existing urban areas; allocation of water for urban uses to areas within urban areas; and wherever possible, locate state buildings and facilities within urban centers close to public transportation; except where compelling public interest dictates development of a non-contiguous new urban core.

- (4) Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimal.
- (5) Identify critical environmental areas in Hawaii to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.
- (6) Encourage the location of new industrial development to existing and planned urban areas.
- (7) Seek participation from the private sector for the cost of building infrastructure, utilities, and open spaces.
- (8) Encourage the identification of all areas within the respective jurisdictions where priority should be given to preserving rural character and lifestyle.
- (9) Coordinate planning for wastewater and solid waste disposal with state and county growth objectives.

**Sec. -105 Hawaii's Land Resources.** Priority actions for the use of Hawaii's resources:

- (a) Preserve and improve shoreline open spaces and scenic resources.
- (b) Seek to utilize Hawaii's limited land resources wisely in order to insure the protection of the environment and the availability of the shoreline, conservation lands and other limited resources for future generations.
- (c) Seek to accommodate urban growth in existing urban areas while maintaining agricultural lands in agricultural designation.

**SECTION 3.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 4.** Part I and Part II of this Act shall take effect upon its approval, and Part III of this Act shall, upon its approval, take effect on May 1, 1979.

(Approved May 22, 1978.)

SECTION 1. Section 78-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 78-1 Citizenship and residence of government officials and employees; exemptions.** (a) All officers, whether elective or appointive, in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens of the United States and residents of the State for at least three years immediately preceding their appointment.

(b) All employees in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals or permanent resident aliens of the United States and residents of the State at the time of their application for employment.

"Resident" means a person who is physically present in the State at the time he claims to have established his domicile in the State and shows his intent is to make Hawaii his permanent residence. In determining this intent, the following factors shall be considered:

(1) maintenance of a domicile or permanent place of residence in the state;

(2) absence of residency in another state.

(c) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (b) applies within forty-five days after the first publication of an advertisement of the position or a notice of an examination therefor, which advertisement or notice has been published more than once, and not oftener than once a week, in a newspaper of general circulation in the State, a person without the qualifications may, upon prior certification by the State director of personnel services or the city and county director of civil service or the county personnel director, whichever is applicable, and with the approval of the chief executive officer for the State or the political subdivision concerned, be employed.

(d) The requirement of residency, as defined under subsection (b) above, shall not apply to a resident who was a resident of the State before marrying a non-resident and who continues to reside in the State.

(e) For the positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States, the employees shall be citizens of the United States in addition to meeting the requirement of residency in subsection (b).

(f) The requirements of subsection (b), (c), and (g) shall not apply to persons recruited by the University of Hawaii under the authority of section 304-11; provided that all persons recruited as Administrative/Professional/Technical personnel of the University of Hawaii shall be subject to the requirement of residency as defined under subsection (b) and the requirement of subsection (g); provided further that appointment of persons to positions requiring highly specialized technical or scientific skills and knowledge may be made without consideration of residency.

(g) A preference shall be granted to State residents who have filed resident income tax returns within the State or who have been claimed as a dependent on such a return at the time of their application for employment with the State or any county or municipal subdivision of the State.

For residents applying for positions covered by chapters 76 and 77, the

preference shall be accomplished as provided in section 76-23.

For residents applying for positions not covered by chapters 76 and 77, the preference shall be accomplished by giving first consideration to such residents, if all other factors are relatively equal."

SECTION 2. Section 76-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-23 Filling vacancy.** All vacant civil service positions shall be filled in the manner prescribed in this part or in section 78-1.

Whenever there is a position to be filled, the appointing authority shall request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the reemployment lists and third the open-competitive lists; provided, that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. The director shall submit eligibles in the order that they appear on the eligible list; provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy; and further provided that, for each eligible without resident preference certified, a resident who has filed a resident income tax return within the State or who has been claimed as a dependent on such a return, as provided by section 78-1, shall also be certified.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to him as eligibles on an intradepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an intradepartmental promotional examination, in which case the director shall hold either an interdepartmental or an intradepartmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to him unless he finds no person acceptable to him on the list certified by the director, in which case he shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states his reasons in writing for rejecting each of the eligibles on the list previously certified to him by the director or, in case of the counties, by the civil service commission. Eligible lists, other than reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in his department by promoting any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which he is to be promoted, and if the position is in the same or related series as the position held by the employee; provided, that when there is no material difference between the qualifications of the employees concerned, the employee with the longest

government service shall receive first consideration for the promotion.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to his having completed one year of satisfactory service in the position to which he was so promoted, but he may at any time be eligible for a promotion to any position through examination.

An employee filling a permanent position temporarily vacant may be given a permanent appointment to the position if it later develops that the vacancy will be permanent, provided he was originally appointed from an appropriate eligible list and the appointing authority certifies that he has been performing the duties of the position in a satisfactory manner.

**SECTION 3. Severability.** If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 4.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 5.** This Act shall take effect upon its approval.

(Approved May 23, 1978.)

**ACT 102**

H.B. NO. 1893-78

**A Bill for an Act Relating to Unemployment.**

**SECTION 1. Purpose.** Recognizing the hardships caused by unemployment, the legislature enacted Act 151, Session Laws of Hawaii 1975, which established, on a temporary basis, the State Program for the Unemployed. This program was intended to provide employment opportunities to meet the labor force needs of Hawaii's residents without encouraging in-migration. The purpose of this Act is to include in the definition of "unemployed individual" the requirement that the individual be a resident of the State of Hawaii.

**SECTION 2.** Section -2 of section 1 of Act 151, Session Laws of Hawaii 1975, as amended, is amended by amending the definition of "unemployed individual" to read:

"Unemployed individual" means an individual who is a resident of the State of Hawaii and who is without a job, is able, is available for, and is seeking full-time employment."

**SECTION 3.** New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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\*Edited accordingly.

SECTION 4. This Act shall take effect upon its approval.  
(Approved May 23, 1978.)

ACT 103

S.B. NO. 1782-78

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and Purpose.** (a) The legislature finds that welfare costs have been rising precipitously in recent years, at a rate more than twice that for general fund tax revenues. As a result, providing funds for welfare has often meant a curtailment of other much-needed State programs and services. The legislature further finds that the limited financial resources of the State necessitates some curtailment of public assistance benefits.

(b) The purpose of this Act is to limit general assistance payments to persons who are disabled, or are at least 55 years of age, or have dependent children in their homes, and who are unable to provide sufficient support for themselves or their dependents.

SECTION 2. Section 346-71, Hawaii Revised Statutes, is amended to read:

**"Sec. 346-71 General assistance.** (a) The department of social services and housing shall administer and provide public assistance to eligible persons who are disabled, or are at least 55 years of age, or have dependent children in the home not otherwise provided for under this chapter, and who are unable to provide sufficient support for themselves or those dependent upon them, provided that such persons are bona fide residents of this State.

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of social services and housing shall consider, but is not limited to considering, the following factors: enrollment and receipt of welfare benefits from another jurisdiction; physical presence in the State; maintenance of a place of residence in the State; the availability of furnishings and household and personal effects sufficient to lead a reasonable person to conclude that the place of residence is more than a public accommodation; qualification as to residence for purposes of voting in the State; change in vehicle operation license; vehicle registration; enrollment of children in local schools; bank accounts in this State or any other jurisdiction.

(b) A disabled person between eighteen and sixty-five years of age shall be eligible for general assistance, if he:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules and regulations of the department;
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) Is unable to engage in any substantial gainful employment because of a physical or mental impairment determined and certified by a licensed physician. "Substantial" as the term is used herein shall mean at least 30 hours of work per week.

Any person determined to be eligible under this subsection may be referred to any appropriate State agency for vocational rehabilitation services and shall be required to accept said services as a further condition of eligibility for the receipt of general assistance under this section. In addition to the foregoing, any person determined to be eligible under this subsection may be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102.

- (c) A person with children shall be eligible for general assistance if:
- (1) He is unemployed for reasons other than voluntary separation without good cause or for misconduct; and
- (2) He is actively and diligently seeking gainful employment; and
- (3) He has not refused to accept employment when offered; and
- (4) He has registered and is available for work as required by section 383-29; and
- (5) He has exhausted all of his benefits under chapter 383; provided, however, should the benefits of any person under chapter 383 be less than those for which he would otherwise be eligible hereunder, he shall be eligible for supplementary general assistance; and provided further, that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits.

“Children” as used in this section shall mean a person who:

- (1) Is ineligible for and is unable to obtain aid under a federal assistance program; and
- (2) Is in need, and has not sufficient income or other resources to provide health care and support to maintain a standard consistent with this chapter; and
- (3) Has not attained the age of eighteen years; provided, however, that a child between the ages of eighteen and twenty-one years shall be eligible for assistance under this section, if he or she:
  - (A) Is regularly attending high school to complete requirements leading to a high school diploma or its equivalent; or
  - (B) Is employed part-time and is enrolled at least half-time in an organized program of vocational or technical training designed to fit the child for gainful employment; or
  - (C) Is employed part-time and is enrolled at least half-time in a local college or university; and
- (4) Is living in a home with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, uncle, aunt, first cousin, nephew, niece, or hanai parents in a place of residence maintained by such relative as his own home; or is living in a family home or institution conforming to the standards fixed by the department.

A child for the purposes of this section does not include an unborn child or fetus.

(d) A person who is at least 55 years of age shall be eligible for general assistance if:

- (1) He is unemployed for reasons other than voluntary separation without good cause or for misconduct; and



- (2) He is actively and diligently seeking gainful employment; and
- (3) He has not refused to accept employment when offered; and
- (4) He has registered and is available for work as required by section 383-29; and
- (5) He has exhausted all of his benefits under chapter 383; provided, however, should the benefits of any person under chapter 383 be less than those for which he would otherwise be eligible hereunder, he shall be eligible for supplementary general assistance; and provided further, that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits.

(e) The department shall further require in addition to the conditions and requirements stated in subsections (c) and (d), that persons who are physically fit, able to work, and employable shall as a condition to receiving general assistance, register for work on public work projects and accept an assignment to work under section 346-31 or accept such employment as may be offered to them by the department under section 346-102 or by an employer. The term "public work projects" includes any kind of labor under the department of accounting and general services of the State or the department of public works of any county, or under any other department, board, commission, or agency of the State or any county. All such agencies may employ persons registering under this section. Payment for the work shall not be made from the funds of the agency employing such persons but shall be made from the funds of the department. The department shall promulgate such rules and regulations as it deems necessary to enforce and carry out this section.

(f) Applicants and recipients shall be required to satisfy all applicable provisions of this section. Recipients disqualified for failure to comply with any of the requirements under the provisions of this section shall be excluded from general assistance for a period not to exceed twelve months.

(g) The department shall by rules adopted pursuant to chapter 91, establish criteria and standards for the foregoing conditions and requirements."

**SECTION 3.** A person receiving general assistance on the effective date of this Act who would otherwise be excluded by the provisions of this Act shall continue to receive general assistance provided he satisfies the requirements under section 346-71(e) and the department finds that:

- (1) He is unemployed for reasons other than voluntary separation without good cause or for misconduct; and
- (2) He is actively and diligently seeking gainful employment; and
- (3) He has not refused to accept employment when offered; and
- (4) He has registered and is available for work as required by section 383-29; and
- (5) He has exhausted all of his benefits under chapter 383; provided, however, should the benefits of any person under chapter 383 be less than those for which he would otherwise be eligible hereunder, he shall be eligible for supplementary general assistance; and provided further, that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits.

Such person shall also be subject to provisions of subsection 346-71(f).

**SECTION 4. Severability.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 6.** This Act shall take effect upon its approval.

(Approved May 23, 1978.)

**ACT 104**

S.B. NO. 1469

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 346-53, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) The maximum basic needs allowance which the department shall initially pay a recipient considering income and resources in accordance with this chapter shall be \$100 plus an additional \$44 for each additional person whose needs have been taken into account by the department. Beginning January 1, 1978 and on or before January 1 of each odd-numbered year thereafter, the director shall submit a report to the legislature indicating the amount of additional moneys required to implement a cost of living increase for the adjusted basic needs allowance equal to the annual percentage increase, rounded to the nearest dollar:

- (1) In the average weekly wage in covered employment as computed by the director of labor and industrial relations pursuant to section 383-22, or
- (2) In the consumer price index for Hawaii as computed by the United States Department of Labor, whichever is lowest.

The director shall request that such amount be reflected in that portion of the executive budget relating to the department. If additional funds are appropriated for a cost of living adjustment, then the adjusted basic needs allowance shall be adjusted to reflect the appropriation.

The department shall pay a recipient the maximum basic needs allowance if the department determines that his needs are not reduced by his income or resources.”

**SECTION 2.** Section 346-54, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 346-54 Report to the legislature.** On or before January 1 of odd-

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\*Edited accordingly.

numbered years the director shall submit a report to the legislature concerning the adequacy of the basic needs allowance and shelter allowance established by this chapter.

In addition, should general fund expenditures for money and medical payment increase at a rate greater than the rate of increase in general fund tax revenues in any fiscal year, the director shall report such increases to the legislature and make cost control recommendations that will control increases in general fund public assistance expenditures. Cost control recommendations shall include, but not be limited to, the following: a) changes in eligibility standards, b) adjustments to the basic needs allowance, c) adjustments to the maximum shelter allowance, d) alternatives to money payments for meeting basic needs, and e) adjustments to medical payment fees and levels of service."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 23, 1978.)

ACT 105

S.B. NO. 2609-78

A Bill for an Act Relating to the Department of Social Services and Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sec. 346-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

"“Provider” means any person or public or private institution, agency or business concern authorized by the department to provide health care, service or supplies to beneficiaries of medical assistance.”

SECTION 2. Sec. 346-10, Hawaii Revised Statutes, is amended to read:

**“Sec. 346-10 Protection of records; divulging confidential information prohibited.** The department of social services and housing and its agents shall keep such records as may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant or recipient shall be confidential. The use or disclosure of information concerning applicants and recipients shall be limited to:

- (1) Persons duly authorized by the State or the United States in connection with their official duties, when the official duties are directly connected with the administration of any form of public assistance, medical assistance or food stamps; or
- (2) Purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any and all forms of public assistance, food stamps or

\*Edited accordingly.

medical assistance, including but not limited to disclosure by the department of information and documents to police departments, prosecutor's offices, the attorney general's office, or any other state or federal agency engaged in the detection, investigation or prosecution of violations of applicable state and federal laws or regulations regarding any and all aspects of theft, fraud, deception or overpayment in connection with any aspect of public assistance, food stamps or medical assistance; further, disclosure by recipient agencies and personnel is permitted under this section to the extent reasonably necessary to carry out the functions for which the information was provided.

- (3) Disclosure to the extent necessary to provide services for applicants and recipients, to determine eligibility, or to determine the amount of public assistance, such determination to include but not be limited to verification of information provided by the recipient of public assistance, medical assistance or food stamps;
- (4) Disclosure to banks, financial institutions or any other payor of a public assistance warrant or check of any and all information indicating that a public assistance warrant or check honored by the bank, institution or payor has been forged or otherwise wrongfully presented for payment;
- (5) Federal agencies responsible for the administration of federally assisted programs, which provide assistance, in cash or in kind, for services, directly to individuals on the basis of need; and certification of receipt of aid to families with dependent children to an employer for purposes of claiming tax credit under Public Law 94-12, the Tax Reduction Act of 1975, shall be permitted; and
- (6) Employees acting within the scope and course of their employment of such recognized social welfare organizations as may be approved by the department.

Disclosure to any committee or legislative body (federal, state, or local) of any information that identifies by name and address any such applicant or recipient; and publication of lists or names of applicants and recipients shall be prohibited.

The department shall promulgate and enforce such rules as may be necessary to prevent improper acquisition or use of confidential information. Any information secured pursuant to this section by the officials or employees may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall be kept in confidential records or files, which shall not be subject to any other law permitting inspection of public records. The department and its agents shall determine whether or not such inspection is in connection with such official duties or within the scope and course of such employment.

The use of the records, and other communications of the department or its agents by any other agency or department of government to which they may be furnished, shall be limited to the purposes for which they are furnished.

Confidential information shall be released if requested by specific written waiver of the applicant or recipient concerned.

SECTION 3. Sec. 346-11, Hawaii Revised Statutes, is amended to read:

**“Sec. 346-11 Unauthorized disclosure or inspection.** Any person, including any person acquiring information through inspection permitted him or another under section 346-10, who, knowing the information to have been acquired from the confidential records or files of the department of social services and housing, intentionally divulges the same other than as authorized by law, or who intentionally and knowingly aids or abets in the inspection of such applications or records by any person unauthorized to inspect the same under this chapter or other provisions of law, shall be guilty of a violation.”

SECTION 4. Sec. 346-13, Hawaii Revised Statutes, is amended to read:

**“Sec. 346-13 Attendance and testimony of witnesses.** In all hearings or investigations conducted by or initiated at the request of the director of social services or his designated subordinate with respect to all matters reasonably related to department functions and programs, the director or his designated subordinate shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of books, papers, documents or objects deemed relevant to the investigation or inquiry, and examining or causing to be examined witnesses as are possessed by a circuit court and may take depositions and certify to official acts. Books, papers, documents or objects obtained pursuant to such an investigation or inquiry may be retained by the director or his designated subordinate for a reasonable period of time for the purpose of examination, audit, copying, testing, or photographing. The circuit courts upon application by any of such officers shall have power to enforce by proper proceedings the attendance and testimony of any witnesses so subpoenaed and the production of books, papers, documents or objects. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit court. Necessary expenses of or in connection with the hearings or investigations shall be payable from the funds appropriated for expenses of the department of social services and housing.

SECTION 5. Sec. 346-34, Hawaii Revised Statutes, is amended to read:

**“Sec. 346-34 Frauds, penalties.** Any recipient who buys or disposes of real property or any person who knowingly aids or abets a recipient in the purchase or sale of real property without the consent of the department of social services and housing shall be guilty of fraud.

If, at any time while the recipient of public assistance is receiving such assistance, his living requirements are reduced and he wilfully fails to report the reduction within thirty days from the date of the reduction to the department, or he acquires from any source real property, funds, income, or other resources and wilfully fails to report the amount of same together with the source of the resources to the department within thirty days of receipt of same, or prior to spending or otherwise disposing of all or any portion of the same, he shall be guilty of fraud and be subject to the penalties provided by this section.

No person shall knowingly obtain or attempt to obtain, or aid or abet another person in obtaining or attempting to obtain, any food commodity under

a food distribution program or any food stamp or coupon under a food stamp plan, to which he or the other person is not entitled to receive or use under any law, or under any rule or regulation promulgated pursuant to section 346-14(9) or chapter 91.

No person shall knowingly give, sell, trade, or otherwise dispose of to another person not entitled to receive or use the same pursuant to any law, or pursuant to any rule or regulation promulgated pursuant to section 346-14(9) or chapter 91:

- (1) Any food commodity received under a food distribution program;
- (2) Any food stamp or coupon received under a food stamp plan; or
- (3) Any food commodity received wholly or partially in exchange for a food stamp or coupon received under a food stamp plan.

Any person convicted under this section shall be guilty of a misdemeanor. Any portion of assistance obtained by any fraudulent device, and any assistance paid after receipt of resources which have not been reported to the department as herein required shall be recoverable by the State for the use of the department as a debt due the State, or, restitution of the amount may be ordered by the court following conviction.

The term "recipient" includes any person to whom a grant of public assistance is made by direct payment, and any person for whose use and benefit a grant of public assistance is made by payment to a relative or other person. Prosecution under this section shall not be considered an exclusive remedy but shall be in addition to any other criminal, civil or administrative remedy or sanction authorized by law."

SECTION 6. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 346- Maintenance and availability of records; penalty.** (a) To enable another provider to determine the proper course of treatment in emergencies and in order to determine whether a provider is genuinely entitled to reimbursement and to protect the medicaid program against fraud and abuse, each provider of health care, service or supplies under the state medicaid program shall maintain, and keep for a period of three years, such records as are necessary to disclose fully the type and extent of health care, service or supplies provided to medicaid recipients. The department may identify the types of records necessary to be kept by promulgation of appropriate rules.

[As enacted, there was no subsection (b).]

(c) No provider shall refuse or fail to make available at his place of business or [appropriate]† location, during normal business hours, or, if the appropriate representative agrees, at the mutual convenience of the parties, immediate access to all records required to be maintained under this section or rules promulgated hereunder and all diagnostic devices concerning or used for the provision of health care, service or supplies to a medicaid recipient to any duly authorized representative of the attorney general's office or the department of social services

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†Bracketed word substituted for "appropriation".

and housing acting in the course and scope of his employment; such diagnostic devices may be examined and tested and such records may be retained by said duly authorized representative for a reasonable period of time for the purpose of examination, audit, copying, testing or photographing. This subsection shall supersede any other provision of the Hawaii Revised Statutes to the contrary notwithstanding.

(d) Whenever a provider without reasonable justification fails to keep adequate supporting records as required by this section or rules promulgated hereunder or fails to make them available as required by this section, the director of the department of social services and housing shall suspend the provider during the period of non-compliance with this section, and no payment may be made to such provider with respect to any item or service furnished by such provider during the period of suspension. A provider shall receive notice and be provided an opportunity for a hearing in compliance with regulations of the department of social services and housing for such suspension.

(e) Wilful refusal or failure to make records available as provided in subsection (c) of this section is a misdemeanor."

SECTION 7. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 346- Inspection of institutional facilities.** (a) The director of the department of health, department of social services and housing and the attorney general of the State shall have the right to inspect all institutions and organizations in the State, whether public or private, to which payments are made by the State medical assistance program, directly or indirectly, or on account of the board and maintenance of persons admitted or committed thereto. The authorized representatives of the director or the attorney general shall have the right of visitation and immediate access for inspection during business hours as often as may be necessary, to those portions of the facilities used or reasonably related to the board, care or treatment of such persons for the purpose of determining the conditions, circumstances and surroundings under which such persons admitted or committed are lodged, boarded, cared for and maintained.

(b) Wilful failure to permit authorized visitation or immediate access for inspection as provided by this section is a misdemeanor."

SECTION 8. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 346- Administrative inspections and warrants.** (a) Issuance and execution of administrative inspection warrants shall be as follows:

(1) A judge of the circuit court, or any district judge within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder, and seizures of the property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the

area, premises, building, conveyance or records in the circumstances specified in the application for the warrant;

- (2) A warrant shall issue only upon an affidavit of an individual having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the issuance exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, conveyance or records to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:
  - (A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;
  - (B) Be directed to a person authorized by the attorney general or the director of social services and housing to execute it;
  - (C) Command the person to whom it is directed to inspect the area, premises, building, conveyance or records identified for the purpose specified and, if appropriate, use reasonable force in conducting the inspection authorized by the warrant and direct the seizure of the property specified;
  - (D) Identify the item or types of property to be seized, if any;
  - (E) Direct that it be served during normal business hours and designate the judge to whom it shall be returned;
- (3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;
- (4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the issuing court.
  - (b) The designated representative of the attorney general or the department may make administrative inspections of provider premises in accordance with the following provisions:
    - (1) For purposes of this section only, "provider premises" means:
      - (A) Places where providers are required to keep records; and
      - (B) Places where providers conduct business related to their receipt of payments from the medicaid program for health care, service or supplies.
    - (2) When authorized by an administrative inspection warrant issued pur-



suant to subsection (a) the representative upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter providers premises for the purpose of conducting an administrative inspection.

- (3) When authorized by an administrative inspection warrant, the representative may:
  - (A) Inspect and copy records required by this chapter to be kept;
  - (B) Retain records required by this chapter to be kept for a reasonable period of time, not to exceed forty-eight hours, for the purpose of examination, audit, copying, testing or photographing;
  - (C) Inspect, examine and test diagnostic devices used in the provision of health care, service or supplies to a medicaid recipient;
  - (D) Inventory any stock of any substance used in the provision of health care, service or supplies to a medicaid recipient and to obtain samples thereof;
  - (E) Inspect, examine and test, within reasonable limits and in a reasonable manner, provider premises and equipment as necessary to assure compliance with this chapter.
- (4) This section does not prevent the inspection without a warrant of property, books and records pursuant to an administrative subpoena issued in accordance with law, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:
  - (A) If the owner, operator, or agent in charge of the provider premises consents;
  - (B) In situations presenting imminent danger to health or safety;
  - (C) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
  - (D) In all other situations in which a warrant is not constitutionally required.”

SECTION 9. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 346- Penalties under other laws.** Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.”

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 11. This Act shall take effect upon its approval.

(Approved May 23, 1978.)

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\*Edited accordingly.

A Bill for an Act Relating to the Establishment of a State Medicaid Fraud Unit and Making an Appropriation Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and declaration of necessity.** The legislature finds and declares that the immediate establishment of a state medicaid fraud unit is urgent and necessary in view of the following:

- (1) Preliminary studies show an urgent need for the establishment of an investigative and enforcement body to eliminate or minimize fraud in the area of Medicaid assistance;
- (2) Section 17 of Public Law 95-142, the Medicare-Medicaid Anti-Fraud Amendments which were recently signed into law, provides ninety per cent federal funding for a state medicaid fraud unit;
- (3) Since federal funds have been available from October 1, 1977, the State can take immediate advantage of such federal funding by providing the State's share of the necessary funds;
- (4) There is an immediate need to hire personnel to study the applicable federal legislation, to conduct preliminary studies, and to draft necessary legislation pursuant to such studies to implement and effectively carry out the stated purpose of the Medicaid Fraud Unit; and
- (5) Pursuant to Article VI, section 5, of the Constitution of the State of Hawaii, the governor has recommended immediate passage of this appropriation.

**SECTION 2.** Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 28- Medicaid fraud unit.** There is established in the department of the attorney general a medicaid fraud unit.

The unit shall employ such attorneys, auditors, investigators, and other personnel as necessary to promote the effective and efficient conduct of the unit's activities. Except for the attorneys, all other employees of the medicaid fraud unit shall be subject to chapters 76 and 77.

The purpose of the medicaid fraud unit shall be to conduct a statewide program for the investigation and prosecution of medicaid fraud cases and violations of all applicable state laws relating to the providing of medical assistance and the activities of providers of such assistance. The medicaid fraud unit may also review and take appropriate action on complaints of abuse and neglect of patients of health care facilities receiving payments under the state plan for medical assistance and may provide for collection or referral for collection of overpayments made under the state plan for medical assistance that are discovered by the unit in carrying out its activities."

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii, the sum of \$361,800, or so much thereof as may be necessary, of which sum \$325,620 shall be reimbursed by federal funds, for the establishment

and operation of a state medicaid fraud unit, which shall consist of not more than ten positions.

SECTION 4. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by the Act as of the close of business on June 29, 1979 shall lapse into the general fund.

SECTION 5. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 6. This Act, upon approval, shall take effect on January 1, 1978.

(Approved May 23, 1978.)

ACT 107

H.B. NO. 2185-78

A Bill for an Act Relating to Adult Care Homes, Family Boarding Homes, and Other Similar Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Adult family boarding home” means any family home operated as a business providing twenty-four hour living accommodations to one to three adults unrelated to the family, who are in need of minimal assistance and supervision in their living activities, and includes other similar institutions.”

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding six new sections to part IVB to be appropriately designated and to read as follows:

**“Sec. 346- Licenses; temporary permits.** To protect the best interests of adults accommodated therein, all adult family boarding homes shall be licensed by the department. A license to operate an adult family boarding home shall be granted only after the minimum standards of operation established by the department have been satisfied. The license shall be valid for one year.

The department may issue a temporary permit to operate an adult family boarding home if an operator or applying operator is temporarily unable to conform to all minimum licensing standards. A temporary permit shall be valid for not more than six months.

**Sec. 346- Rules.** The department shall adopt such rules as are necessary and in accordance with chapter 91 to carry out the purpose of this subpart and to:

- (1) Protect the health, safety, and welfare of adults residing in adult family boarding homes;
- (2) Establish and enforce minimum licensing standards; and

\*Edited accordingly.

(3) Comply with applicable statutes and regulations.

**Sec. 346- Suspension and revocation of licenses and permits; reissuance.**

Any license or temporary permit issued hereunder may be suspended or revoked by the department after due notice and hearing. The license or temporary permit of an adult family boarding home may be suspended immediately, without notice and pending a hearing, if conditions exist which constitute an imminent danger to the health and safety of the adults residing therein. The department shall provide for hearings consistent with chapter 91.

**Sec. 346- Inspection, visitation, training.** (a) The department shall visit and inspect licensed premises as frequently as is deemed necessary to insure conformance with standards of operation, sanitation, and safety. An inspection shall be made at least once annually. Every licensed home shall be open to visitation and inspection by representatives of the department with or without prior notice.

(b) The department of social services and housing shall provide for at least a quarterly visitation of persons receiving care in any facility licensed under section 346- and 321- ; provided that the placement of the person in the facility was initiated by the State, and the payment for the person's care is being made under any medical or other assistance program administered by the State. The visitation shall be made to ensure the well-being of the persons receiving care, and the appropriateness of the level of care to the needs of the person.

(c) The department shall provide for the training of operators and staff of any facility licensed under section 346- in conjunction with any licensing thereof, and in coordination with the department of health, to ensure that adult family boarding home operators shall have the needed skills to provide proper care and supervision in a home environment (i.e., first aid, cardiopulmonary resuscitation, and nutrition training as a minimum). Such training shall be provided at the expense of the State.

(d) Rules to implement this section shall be adopted subject to chapter 91.

**Sec. 346- Penalty.** Any person who intentionally operates an adult family boarding home without a license shall be guilty of a misdemeanor.

**Sec. 346- Vacancy inventory; clearinghouse.** The department shall maintain an inventory of all facilities licensed under sections 321- and 346- , and shall maintain a current inventory of vacancies therein to facilitate the placement of individuals in such facilities. The department shall serve as a clearinghouse for placements in such facilities, and shall provide for the regulation of placements therein. Rules to implement this section shall be adopted subject to chapter 91."

SECTION 3. Chapter 321, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"Sec. 321- Care homes; licenses; temporary permits; training and regulation.** (a) All care homes shall be licensed to ensure the health, safety, and welfare of the individuals placed therein; provided that the department may issue a temporary permit to operate a care home if an operator or applying operator is temporarily unable to conform to all minimum licensing standards. A temporary permit shall be valid for not more than six months.

(b) The director shall adopt rules regarding care homes in accordance with chapter 91 which shall be designed to:

- (1) Protect the health, safety, and civil rights of persons residing in the facilities regulated;
- (2) Provide for the licensing of facilities regulated;
- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rules.

(c) The department shall provide for the training of operators and staff of any facility licensed under section 321- , in conjunction with any licensing thereof, and in coordination with the department of health, to ensure that adult family boarding home operators shall have the needed skills to provide proper care and supervision in a home environment (i.e., first aid, cardiopulmonary resuscitation, and nutrition training as a minimum). Such training shall be provided at the expense of the State.

(d) Rules adopted under this section shall be enforced by the director.

**Sec. 321- Penalty.** Any person who intentionally operates an adult care home without a license shall be guilty of a misdemeanor.

SECTION 4. Section 321-15,† Hawaii Revised Statutes, is repealed.

[**Sec. 321-15.5 Emergency placements in unlicensed care homes.** Placement of persons needing care in care homes shall be authorized only in facilities duly licensed by the department of health, except that in a bona fide emergency where no appropriate licensed facility is available. The department of health may authorize placement in an unlicensed facility; provided the department concurrently issues a special certificate authorizing such placement for a period not to exceed six consecutive calendar months; and provided further that immediate planning shall take place for the location of an appropriate licensed facility for the individual so placed in an unlicensed facility. In unusual circumstances where an appropriate licensed facility is unavailable, the department may, with the prior written approval of the director of health, extend authorization for continued placement in the unlicensed facility at the end of the initial six-month period for an additional period not to exceed one year.]

SECTION 5. Section 346-14, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 346-14 Duties generally.** Except as otherwise provided by law, the department of social services and housing shall:

- (1) Administer, establish programs and standards, and promulgate rules as deemed necessary for all public assistance, including payments for medical care;
- (2) Establish, extend, and strengthen services for the protection and care of neglected children and children in danger of becoming delinquent;
- (3) Assist in preventing family breakdown;

†So in original.

- (4) Place, or cooperate in placing neglected children in suitable private homes or institutions, and place, or cooperate in placing, children in suitable adoptive homes;
- (5) Have authority to establish, maintain, and operate receiving homes for the temporary care and custody of neglected children until suitable plans are made for their care; and accept from the police and other agencies, for temporary care and custody, any neglected child until satisfactory plans are made for the child;
- (6) Cooperate with the federal government in carrying out the purposes of the Social Security Act, and in other matters of mutual concern pertaining to public welfare, public assistance, and child welfare services, including the making of such reports, the adoption of such methods of administration and the making of such rules and regulations as are found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for such public welfare, assistance, and child welfare services, or as may be necessary or desirable for the receipt of financial assistance from the federal government;
- (7) Carry on research and compile statistics relative to public and private welfare activities throughout the State, including those dealing with dependence, defectiveness, delinquency, and related problems;
- (8) Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems;
- (9) Make such rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting and conduct such other activities, as may be necessary or proper to carry out this chapter, which rules, when approved by the governor, shall have the force and effect of law;
- (10) Supervise or administer any other activities authorized or required by this chapter, including the development of the staff of the department through in-service training and educational leave to attend schools and other appropriate measures, and any other activities placed under the jurisdiction of the department by any other law;
- (11) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 346-31 as it deems advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of the funds, which rules, when approved by the governor, shall have the force and effect of law; and
- (12) Have authority to establish, maintain, and operate intermediate care facilities and care homes for the care of medical indigents; to enter into contracts with nonprofit corporations for the maintenance and operation of such facilities and homes; and to recruit and license adult family

boarding homes as defined by the department to care for adult recipients who do not require the level of care provided in an intermediate care facility or care home.”

SECTION 6. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 346-53 Determination of amount of assistance.** (a) The director shall adopt rules pursuant to chapter 91 concerning the determination of public assistance grants under this chapter. Public assistance grants shall be sufficient to maintain a standard consistent with this chapter. In granting public assistance to a person under this chapter the department may take into account part or all of the needs of the person’s dependents or those persons essential to his well being, provided that they are also eligible for public assistance. In the event that a public assistance grant to a recipient has taken into consideration only part of the needs of other eligible persons this public assistance grant shall be without prejudice to a separate public assistance grant to such other eligible persons or any of them, as may be proper to meet their remaining needs and in compliance with this chapter.

(b) The maximum basic need allowance which the department shall initially pay a recipient considering income and resources in accordance with this chapter shall be \$100 plus an additional \$44 for each additional person whose needs have been taken into account by the department. Once each year, beginning July 1, 1976, the director shall increase the maximum basic needs allowance which the department may pay a recipient, by a percentage equal to the annual percentage increase in the average weekly wage in covered employment, as computed by the director of labor and industrial relations pursuant to section 383-22. The department shall pay a recipient the maximum basic needs allowance if the department determines that his needs are not reduced by this income or resources.

(c) If a child is eligible for public assistance under section 346-55, and if the child lives in a home or a place of residence maintained as a home by a relative specified under section 346-55, and if such a relative is a person essential to the child’s well being, then the department shall pay in behalf of each child the basic needs allowance and shelter allowance as prescribed in this chapter. The department shall make such payment regardless of whether such relative does or does not receive public assistance.

(d) For recipients in nondomiciliary shelter, the shelter allowance (to include rent and utilities) shall be for cost paid, up to the maximum as provided in the following schedule:

- (1) \$175 for 1 person;
- (2) \$215 for 2 persons;
- (3) \$240 for 3 persons;
- (4) \$265 for 4 persons;
- (5) \$290 for 5 persons;
- (6) \$320 for 6 persons;
- (7) \$360 for 7 or more persons.

(e) The director shall pursuant to chapter 91 determine the rate of payment for the different levels of domiciliary care provided to recipients eligible for

Federal Supplemental Security Income or public assistance in accordance with state standards.

The rate of payment at which level a recipient enters an adult family boarding home or a care home licensed pursuant to sections 346- and 321- , shall remain the same for as long as the recipient resides in that adult family boarding home or care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that, notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; provided further that if the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility. The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult family boarding home, care home, or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

(f) The department shall establish rules pursuant to chapter 91 for supplement payments under the Federal Supplemental Security Income Program or its successor agency, such that a recipient's payments and benefits do not exceed the total of the maximum basic needs allowance and shelter allowance as provided by this chapter; provided that if a recipient sharing housing with a person receiving a shelter allowance from the department could qualify as an essential person to or dependent of such person, then the recipient shall be considered to live in free shelter. A recipient renting private housing or purchasing the home he lives in shall receive a shelter allowance for cost paid, up to the maximum established in subsection (d).

(g) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for money payments by the department. However, under extraordinary circumstances as determined by the department, an additional rental and/or utility deposit may be granted.

(h) Any recipient may petition the department for additional assistance when his need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances. If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of the household appliances is more than one-half the unit cost of the item, the department shall



replace the household appliance; provided the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliance" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total money payments from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance."

SECTION 7. Section 346-90, Hawaii Revised Statutes, is repealed.

SECTION 8. **Appropriation.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$76,686 or so much thereof as may be necessary, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of social services and housing for the purpose of this Act. Any unexpended or unencumbered balance of any appropriation made by the Act as of the close of business on June 30, 1979 shall lapse into the general fund.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 10. This Act shall take effect on July 1, 1978.

(Approved May 23, 1978.)

ACT 108

H.B. NO. 1815-78

A Bill for an Act Relating to Collective Bargaining.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 89-11 Resolution of disputes; grievances; impasses.** (a) A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in a final and binding decision, to be invoked in the event of any dispute concerning the interpretation or application of a written agreement. In the absence of such a procedure, either party may submit the dispute to the board for a final and binding decision. A dispute over the terms of an initial or renewed agreement does not constitute a grievance.

(b) A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth an impasse procedure culminating in a final and binding decision, to be invoked in the event of an impasse over the terms of an initial or renewed agreement. In

\*Edited accordingly except as to SECTION 4 which has been set out in full.

the absence of such a procedure, either party may request the assistance of the board by submitting to the board and to the other party to the dispute a clear, concise statement of each issue on which an impasse has been reached together with a certificate as to the good faith of the statement and the contents therein. The board, on its own motion, may determine that an impasse exists on any matter in a dispute. If the board determines on its own motion that an impasse exists, it may render assistance by notifying both parties to the dispute of its intent.

The board shall render assistance to resolve the impasse according to the following schedule:

- (1) **Mediation.** Assist the parties in a voluntary resolution of the impasse by appointing a mediator or mediators, representative of the public, from a list of qualified persons maintained by the board, within three days after the date of the impasse, which shall be deemed to be the day on which notification is received or a determination is made that an impasse exists.
- (2) **Fact-finding.** If the dispute continues fifteen days after the date of the impasse, the board shall appoint, within three days, a fact-finding board of not more than three members, representative of the public, from a list of qualified persons maintained by the board. The fact-finding board, shall, in addition to powers delegated to it by the public employment relations board, have the power to make recommendations for the resolution of the dispute. The fact-finding board, acting by a majority of its members, shall transmit its findings of fact and any recommendations for the resolution of the dispute to both parties within ten days after its appointment. If the dispute remains unresolved five days after the transmittal of the findings of fact and any recommendations, the board shall publish the findings of fact and any recommendations for public information if the dispute is not referred to final and binding arbitration.
- (3) **Arbitration.** If the dispute continues thirty days after the date of the impasse, the parties may mutually agree to submit the remaining differences to arbitration, which shall result in a final and binding decision. The arbitration panel shall consist of three arbitrators, one selected by each party, and the third and impartial arbitrator selected by the other two arbitrators. If either party fails to select an arbitrator or for any reason there is a delay in the naming of an arbitrator, or if the arbitrators fail to select a neutral arbitrator within the time prescribed by the board, the board shall appoint the arbitrator or arbitrators necessary to complete the panel, which shall act with the same force and effect as if the panel had been selected by the parties as described above. The arbitration panel shall take whatever actions necessary, including but not limited to inquiries, investigations, hearings, issuance of subpoenas, and administering oaths, in accordance with procedures prescribed by the board to resolve the impasse. If the dispute remains unresolved within fifty days after the date of the impasse, the arbitration panel shall transmit its findings and its final and binding decision

on the dispute to both parties. The parties shall enter into an agreement or take whatever action is necessary to carry out and effectuate the decision. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies, and the employer shall submit all such items agreed to in the course of negotiations within ten days to the appropriate legislative bodies.

- (4) The costs for mediation and fact-finding shall be borne by the board. All other costs, including that of a neutral arbitrator, shall be borne equally by the parties involved in the dispute.

- (c) If the parties have not mutually agreed to submit the dispute to final and binding arbitration, either party shall be free to take whatever lawful action it deems necessary to end the dispute; provided that no action shall involve the disruption or interruption of public services within sixty days after the fact-finding board has made public its findings of fact and any recommendations for the resolution of the dispute. The employer shall submit to the appropriate legislative bodies his recommendations for the settlement of the dispute on all cost items together with the findings of fact and any recommendations made by the fact-finding board. The exclusive representative may submit to the appropriate legislative body its recommendations for the settlement of the dispute on all cost items.

- (d) Notwithstanding any other law to the contrary, if a dispute between a public employer and the exclusive representative of optional appropriate bargaining unit (11), firefighters, exists over the terms of an initial or renewed agreement, the board shall assist in the voluntary resolution of the impasse by appointing a mediator within three days after the date of impasse. If the dispute continues to exist fifteen working days after the date of impasse, the dispute shall be submitted to arbitration proceedings as provided herein.

The board shall immediately determine whether the parties to the dispute have mutually agreed upon an arbitration procedure and whether the parties have agreed upon a person or persons whom the parties desire to be appointed as the arbitrator or as a panel of arbitrators, as the case may be.

If the board determines that an arbitration procedure mutually agreed upon by the parties will result in a final and binding decision, and that an arbitrator or arbitration panel has been mutually agreed upon, it shall appoint such arbitrator or arbitration panel and permit the parties to proceed with the arbitration procedure mutually agreed upon.

If, after eighteen working days from the date of impasse the parties have not mutually agreed upon an arbitration procedure and an arbitrator or arbitration panel, the board shall immediately notify the employer and the exclusive representative that the issues in dispute shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

Within twenty-one working days from the date of impasse, two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The impartial third member of the arbitration panel shall be selected by the two previously selected panel members and shall chair the arbitration panel.

In the event that the two previously selected arbitration panel members fail

to select an impartial third arbitrator within twenty-four working days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the impartial arbitrator shall be selected. Within five calendar days after receipt of such list, the parties shall alternately strike names therefrom until a single name is left, who shall be immediately appointed by the board as the impartial arbitrator and chairman of the arbitration panel.

Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a complete final offer which shall constitute a complete agreement and shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions it is proposing for inclusion in the final agreement.

Within twenty calendar days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final offers. Nothing in this section shall be construed to prohibit the parties from reaching a voluntary settlement on the unresolved issues, with or without the assistance of a mediator, at any time prior to the conclusion of the hearing conducted by the arbitration panel.

Within thirty calendar days after the conclusion of the hearing, a majority of the arbitration panel shall select the most reasonable of the complete final offers submitted by the parties and shall issue a final and binding decision incorporating that offer without modification.

In reaching a decision, the arbitration panel shall give weight to the factors listed below and shall include in a written opinion an explanation of how the factors were taken into account in reaching the decision:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public.
- (4) The financial ability of the employer to meet these costs.
- (5) The present and future general economic condition of the counties and the State.
- (6) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other persons performing similar services, and of other State and county employees generally.
- (7) The average consumer prices for goods for services, commonly known as the cost of living.
- (8) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (9) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (10) Such other factors, not confined to the foregoing, which are normally

or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration, or otherwise between the parties, in the public service or in private employment.

The decision of the arbitration panel shall be final and binding upon the parties. The parties shall enter into an agreement or take whatever action is necessary to carry out and effectuate the decision. The parties may, at any time and by mutual agreement, amend or modify the decision.

Agreements reached pursuant to the decision of an arbitration panel as provided herein, shall not be subject to ratification by the employees concerned. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies and the employer shall submit all such items within ten days after the date on which the agreement is entered into as provided herein, to the appropriate legislative bodies.

The costs for mediation shall be borne by the board. All other costs incurred by either party in complying with these provisions, including the costs of its selected member on the arbitration panel, shall be borne by the party incurring them, except that all costs and expenses of the impartial arbitrator shall be borne equally by the parties."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect on July 1, 1978.

(Approved May 23, 1978.)

## ACT 109

S.B. NO. 2147-78

A Bill for an Act Relating to Minors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 577A-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 577A-1 Definition.** For the purpose of this chapter, the following terms shall be defined as follows:

"Medical care and services" means the diagnosis, examination and administration of medication in the treatment of venereal diseases and pregnancy. It shall not include surgery or any treatment to induce abortion.

SECTION 2. Chapter 577A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 577A Limitation of Actions.** Notwithstanding any other law to the contrary, an action to recover any debt founded upon any contract, obligation, or liability made pursuant to chapter 577A shall not commence until a minor has

\*Edited accordingly.

reached the age of majority, provided that said action shall commence within two years of the date a minor reaches the age of majority.

SECTION 3. Section 657-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 657-1 Six years.** The following actions shall be commenced within six years next after the cause of action accrued, and not after:

- (1) Actions for the recovery of any debt founded upon any contract, obligation, or liability, excepting such as are brought upon the judgment or decree of a court; excepting further that actions for the recovery of any debt founded upon any contract, obligation, or liability made pursuant to chapter 577A shall be governed by chapter 577A.
- (2) Actions upon judgments or decrees rendered in any court not of record in the State, or, subject to section 657-9, in any court of record in any foreign jurisdiction;
- (3) Actions for taking or detaining any goods or chattels, including actions in the nature of replevin;
- (4) Personal actions of any nature whatsoever not specifically covered by the laws of the State.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 110

S.B. NO. 2620-78

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to amend pertinent chapters of the Hawaii Revised Statutes to make funding and administrative provisions to enable recipients of social services to satisfy statutory requirements imposed by state and federal tax and employment insurance programs resulting from the receipt of such services, and to exempt them from statutory requirements under state wage loss replacement programs.

SECTION 2. Section 346-1, Hawaii Revised Statutes, is amended by amending the definition of "money payments" to read:

**"Money payments"** means public assistance except for payments for medical care [.] and social service payments, including funds received from the federal government."

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\*Edited accordingly.

SECTION 3. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 346- Social services. (a)** The department shall adopt rules to provide social services pursuant to the Social Security Act, as amended, to eligible persons who are residents of the State. Such rules shall include provisions to permit payment for social services received by recipients from individuals, organizations, or other public or private agencies, and to enable the recipients to satisfy statutory requirements of State and federal tax and employment insurance programs.

(b) The department may contract for the purchase of social services to be performed for the benefit of eligible recipients from individuals, organizations, and private or public agencies, or to reimburse an eligible recipient for department authorized social services obtained directly from individuals. Persons performing authorized social services obtained directly by the recipient shall not be considered employees of the State. The rate of payment for social services obtained directly by the recipient from an individual who is not self-employed shall reflect the recipient's obligation under state and federal tax and employment insurance laws.”

SECTION 4. Section 386-1, Hawaii Revised Statutes, is amended by amending the definition of “employment” to read as follows:

““Employment” means any service performed by an individual for another person under any contract of hire or apprenticeship, express or implied, oral or written lawfully or unlawfully entered into. It includes service of public officials, whether elected or under any appointment or contract of hire express or implied.

“Employment” does not include the following service:

- (1) Service for a religious, charitable, educational, or nonprofit organization if performed in a voluntary or unpaid capacity;
- (2) Service of a religious, charitable, educational, or nonprofit organization if performed by a recipient of aid therefrom and the service is incidental to or in return for the aid received;
- (3) Service for a school, college, university, college club, fraternity, or sorority if performed by a student who is enrolled and regularly attending classes and in return for board, lodging, or tuition furnished, in whole or in part;
- (4) Service performed by a duly ordained, commissioned, or licensed minister, priest, or rabbi of a church in the exercise of his ministry or by a member of a religious order in the exercise of nonsecular duties required by the order.
- (5) Service performed by an individual for another person solely for personal, family, or household purposes if the cash remuneration received is less than \$225 during the current calendar quarter and during each completed calendar quarter for the preceding twelve month period.
- (6) Domestic, which includes attendant care, and day care services authorized by the department of social services and housing under the Social Security Act, as amended, performed by an individual in the

employ of a recipient of social service payments.

As used in this paragraph "religious, charitable, educational, or nonprofit organization" means a corporation, unincorporated association, community chest, fund, or foundation organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual."

SECTION 5. Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 392-5 Excluded services.** "Employment" as defined in section 392-3 does not include the following service:

- (1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;
- (2) Service not in the course of the employer's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer's trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs the service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employer in the performance of the service during the preceding calendar quarter;
- (3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (A) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (B) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in his employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week, and (C) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;



- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
- (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter;
- (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
- (8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;
- (9) Service performed in any calendar quarter in the employ of any non-profit organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if (A) the remuneration for such service is less than \$50, or (B) the service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university, or (C) the service is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of nonsecular duties required by the order, or (D) the service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;
- (10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if (A) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) eighty-five percent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;
- (11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if (A) admission to membership in the association is limited to individuals who are officers or employees of the United States government, and (B) no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual;
- (12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code of 1954, if the service is performed by a student who is enrolled

- and is regularly attending classes at the school, college, or university;
- (13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if: (A) the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and (B) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
  - (14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
  - (15) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;
  - (16) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
  - (17) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;
  - (18) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation [.]
  - (19) Domestic, which includes attendant care, and day care services authorized by the department of social services and housing under the Social Security Act, as amended, performed by an individual in the employ of a recipient of social service payments."

SECTION 6. Section 393-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 393-5 Excluded services.** "Employment" as defined in section 393-3 does not include the following services:

- (1) Service performed by an individual in the employ of an employer who, by the laws of the United States, is responsible for care and cost in connection with such service.

- (2) Service performed by an individual in the employ of his spouse, son, or daughter, and service performed by an individual under the age of twenty-one in the employ of his father or mother.
- (3) Service performed in the employ of a voluntary employee's beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if
  - (A) Admission to membership in the association is limited to individuals who are officers or employees of the United States government, and
  - (B) No part of the net earnings of the association inures (other than through such payments) to the benefits of any private shareholder or individual.
- (4) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission.
- (5) Service performed by an individual for an employer as a real estate salesman or as a real estate broker, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission.
- (6) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the provisions of law relating to federal employment, including unemployment compensation.
- (7) Domestic, which includes attendant care, and day care services authorized by the department of social services and housing under the Social Security Act, as amended, performed by an individual in the employ of a recipient of social service payments."

**SECTION 7. Appropriation.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$110,902, of which sum \$83,176.50 shall be reimbursed by federal funds, to carry out the provisions of this Act.

The sum appropriated shall be expended by the department of social services and housing for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by the Act as of the close of business on June 30, 1979 shall lapse into the general fund.

**SECTION 8. Severability clause.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 9. Effective date.** This Act shall take effect upon its approval.

(Approved May 24, 1978.)

A Bill for an Act Relating to Penalties and Procedure on Arrest, Interpretation and Severability in the Statewide Traffic Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The title of Part XV of Chapter 291C, Hawaii Revised Statutes, is amended to read:

**“PART XV. PENALTIES AND PROCEDURE ON ARREST;  
RESPECTIVE POWERS OF STATE AND COUNTIES”.**

SECTION 2. Part XV of Chapter 291C, Hawaii Revised Statutes, is amended by adding the following new sections to be appropriately designated and to read as follows:

**“Sec. 291C- Procedure upon arrest.** Except when authorized or directed under State law to immediately take a person arrested for a violation of any of the traffic laws before a district judge, any authorized police officer, upon making an arrest for violation of the State traffic laws shall take the name, address, and operator’s license number of the alleged violator and the registered license number of the motor vehicle involved and shall issue to him in writing a summons or citation, hereinafter described, notifying him to answer to the complaint to be entered against him at a place and at a time provided in said summons or citation.”

**“Sec. [291C-]† Summons or citation.** (1) There shall be provided for use by authorized police officers, a form of summons or citation for use in citing violators of those traffic laws which do not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district courts and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawaii.

(2) In every case when a citation is issued the original of the same shall be given to the violator or in the case of an unattended vehicle, the original of the same shall be affixed to said vehicle as provided for in section 291C- herein; provided that the administrative judge of the district courts may prescribe the giving to the violator or affixing to said vehicle, a carbon copy of the citation, and provide for the disposition of the original and any other copies.

(3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.”

**“Sec. 291C- Failure to obey summons or citation.** Any person who fails to appear at the place and within the time specified in the summons or citations issued to him by an officer upon his arrest for any traffic violation is guilty of a

†“291C-” substituted for “921C-” to correct obvious clerical error.

violation as provided in the Penal Code regardless of the disposition of the charge of which he was originally arrested.”

**“Sec. 291C- Summons or citation on illegally parked vehicle.** Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions contained in the State traffic laws, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its registered owner, and shall conspicuously affix to such vehicle a citation, hereinbefore described, for the registered owner of record to answer to the charge against him within seven days during the hours and at a place specified in the citation.”

**“Sec. 291C- Failure to comply with summons or citation attached to parked vehicle.** If a violator of the restrictions on stopping, standing, or parking under the State traffic laws does not appear in response to a summons or citation affixed to such motor vehicle within a period of seven days, the traffic violations bureau shall issue to the registered owner of the motor vehicle to which the summons or citation was affixed, a penal summons ordering his appearance in court.”

**“Sec. 291C- When complaint to be issued.** In the event any person fails to comply with a penal summons given to such person or attached to a vehicle, or if any person fails or refuses to deposit bail as required and within the time permitted, the court shall forthwith issue a warrant for his arrest.”

**Sec. 291C- Interpretation.** Wherever consistent with the context of the State traffic laws, words in the present, past or future shall be construed to be interchangeable with and to include any other tense; the masculine gender shall be construed to include the feminine gender; and words in the singular number shall be construed to include the plural; and in the plural to include the singular, and each shall be construed to be interchangeable with the other.”

**“Sec. 291C- Severability.** If any provision of the State traffic laws is held for any reason invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the State traffic laws.”

**“Sec. 291C- Revocation or suspension of license.** In addition to the penalties heretofore provided, the court may revoke or may suspend, for a period not to exceed one year, the license of any operator or chauffeur convicted of a violation of any section or provision of the State traffic laws involving a vehicle in motion.”

**“Sec. 291C- Disposition of fines and forfeitures.** All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of the State traffic laws shall be paid to the director of finance of the State.”

**“Sec. 291C- Refusal to provide identification.** Any person detained for a violation of this chapter shall not wilfully refuse to provide his name, address and any proof thereof upon the lawful order or direction of any police officer in the course and scope of his duties pursuant to this chapter.”

## ACT 112

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall become effective upon its approval.

(Approved May 24, 1978.)

## ACT 112

H.B. NO. 1878-78

A Bill for an Act Relating to Notice in Guardianship of the Person Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:5-207, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 560:5-207 Court appointment of guardian of the person of minor; procedure.** (a) Notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor shall be given by the petitioner to the minor, if he is fourteen or more years of age, by personal service. In addition, notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor is to be given by the petitioner in the manner prescribed by section 1-401 to:

- (1) The person who has had the principal care and custody of the minor during the sixty days preceding the filing of the petition;
- (2) Any living legal parent and grandparent of the minor; and
- (3) Any guardian of the minor's property."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall become effective upon its approval.

(Approved May 24, 1978.)

## ACT 113

H.B. NO. 1884-78

A Bill for an Act Relating to the Uniform Probate Code Concerning Notice.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:1-401, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:1-401 Notice; method and time of giving.** (a) If notice is required and except for specific notice requirements as otherwise provided, the applicant or petitioner shall cause notice to be given to any interested person or his attorney

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\*Edited accordingly.

if he has appeared by attorney or requested that notice be sent to his attorney, or, in the case of a minor or an incapacitated person, his parent or guardian, as appropriate. Notice shall be given:

- (1) By any method by which the person entitled to notice receipts for a copy thereof at least fourteen days before the time set for the hearing; or
- (2) If notice cannot be effected pursuant to paragraph (1) or if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for three consecutive weeks, a copy thereof in a newspaper having general circulation in the judicial circuit where the hearing is to be held or the probate proceedings are being maintained, the last publication of which is to be at least ten days before the time set for either the hearing or the registrar's action."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall become effective upon its approval.

(Approved May 24, 1978.)

ACT 114

H.B. NO. 1889-78

A Bill for an Act Relating to the Hawaii Supreme Court Concerning a Full Court, Oral Arguments, and Substitute Justices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 602-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 602-11 Full court; oral argument; substitute justices.** Parties shall be entitled to bring an appeal before a full court. Oral argument shall be before a full court; provided that in an appropriate case the court in its discretion may dispense with oral argument. In case of a vacancy, or if a justice of the supreme court is disqualified from sitting in any case pending before the supreme court, or is unable to attend, or is absent, or is recused or has been excused, the vacancy or the place of such justice may be temporarily filled by a circuit judge designated by the chief justice or by the appointment of a justice who has retired from the supreme court. Such retired justice chosen to serve as substitute justice shall not be actively engaged in the practice of law. A retired justice, when sitting as substitute justice, shall be compensated at a rate of pay of associate justices of the supreme court. When necessary, the court may consist of five circuit judges, so designated or five retired justices so appointed or any combination of circuit judges and retired justices. After oral argument of a case, if a vacancy arise or if for any other reason a justice is unable to continue on the case, the case may be

\*Edited accordingly.

## ACT 115

decided or disposed of upon the concurrence of any three members of the court without filling the vacancy or the place of such justice.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall become effective upon its approval.

(Approved May 24, 1978.)

## ACT 115

H.B. NO. 1911-78

A Bill for an Act Relating to Real Property Taxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 246-55, Hawaii Revised Statutes, is amended to read:

**“Sec. 246-55 Tax liens; co-owners’ rights; foreclosure; limitation.** Every tax due upon real property, as defined by section 246-1, shall be a paramount lien upon the property assessed, which lien shall attach as of [January 1 preceding] July 1 in each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of the proceedings or the completion of [such] the foreclosure sale.

In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, he shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within ninety days after the payment so made by the cotenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in his capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

The cotenant’s lien shall have the same priority as the lien or liens of the government for the taxes paid by him, and may be enforced by an action in the nature of a suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if

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\*Edited accordingly.



such proceedings are begun and notice of the pendency thereof is recorded or filed and registered as provided by law, within the period.

The director or his subordinate, in case of a government lien, and the creditor cotenant, in case of a cotenant's lien, shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved, and the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, shall, in the case of a cotenant's lien, which contains the reference to the book and page of the original lien, be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on the certificate.

This section as to cotenancy shall apply, as well, in any case of ownership by more than one assessable person.

Upon enforcement or foreclosure by the government, in any manner whatsoever, of any such real property tax lien, all taxes of whatsoever nature and howsoever accruing due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed shall be satisfied as far as possible out of the proceeds of the sale remaining after payment of (1) the costs and expenses of the enforcement and foreclosure including a title search, if any, (2) the amount of subsisting real property tax liens, and (3) the amount of any recorded liens against the property, in the order of their priority.

The liens may be enforced by action of the tax collector in the circuit court of the judicial circuit in which the property is situate, and jurisdiction is conferred upon the circuit courts to hear and determine all proceedings brought or instituted to enforce and foreclose such tax liens, and the proceedings had before the circuit courts shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time without the State or cannot be served within the State, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint or that such owners or claimants are necessary or proper parties to the action, the court may grant an order that the service may be made in the manner provided by sections 634-23 to [28] 634-28.

In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien for taxes in the manner herein provided."

SECTION 2. Section 154-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 154-5 Exemption from real property tax.** Orchard property, during the period of such classification, shall be exempt from real property taxes set forth in chapter 246; provided that this exemption shall take effect as of [January

## ACT 116

1 preceding] July 1 of the tax year following the execution of the agreement provided in section 154-4 and shall in any event terminate on [December 31] June 30 of the tax year of expiration of the agreement.”

SECTION 3. Section 186-7, Hawaii Revised Statutes, is amended to read:

“**Sec. 186-7 Exemption from real property tax.** Any property classified as tree farm property by the board of land and natural resources and the department of taxation shall not, as long as the agreement described in section 186-5 is in effect, be subject to the real property tax set forth in chapter 246; provided[, ] that this exemption shall take effect as of [January 1] July 1 of the year following the execution of the agreement.”

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

## ACT 116

H.B. NO. 1926-78

A Bill for an Act Relating to the Use of Moneys in the Loan Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 36-25, Hawaii Revised Statutes, is amended to read:

“**Sec. 36-25 Transfers to loan fund; interest.** (a) When there are excess moneys, as provided in section 36-21, the director of finance may make temporary transfers of the moneys to the loan fund for the temporary uses thereof. The total of the transfers to the loan fund shall not exceed the sum of unissued general obligation bonds of the State as authorized by the legislature. The general, special, or revolving funds shall be reimbursed from the proceeds of bond sales upon the eventual issuance and sale of the bonds.

(b) The director of finance may, in his discretion, require payment of interest on any moneys, including loan fund moneys, used to fund any expenditure as provided in any act of the legislature for which general obligation bonds have been authorized but unissued, the debt service of which is required to be repaid from revenues, user taxes or a combination of both, of the public undertaking, improvement or system. Interest shall be paid by the public undertaking, improvement or system which incurred such expenditures and shall be computed on the aggregate amount of moneys used by that public undertaking, improvement or system on a monthly basis as determined and reported by the comptroller of the State; provided that the rate of interest shall not exceed that which the State could have realized if it invested the same in time certificates of deposit. Income derived from the temporary use of moneys as provided herein shall be a realization of the general fund. Upon the eventual issuance and sale of the bonds, debt service shall be paid by the public undertaking, improvement or system as provided by law.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 117

H.B. NO. 1927-78

A Bill for an Act Relating to the Executive Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 37-62, Hawaii Revised Statutes, is amended:

(1) By amending the definition of "construction costs" to read:

"(7) "Construction costs" means the costs involved in building and landscaping capital facilities, including any consultant or staff services required and built-in equipment."

(2) By amending the definition of "cost element" to read:

"(9) "Cost element" means the major subdivision of a cost category. For the category "capital investment," it includes plan, land acquisition, design, construction, and equipment and furnishing. For the categories "research and development" and "operating," it includes personal services, other current expenses, equipment and motor vehicles."

(3) By adding a new definition to be appropriately numbered and inserted and to read:

"Plan costs" means the costs related to preparation of general plan, functional plan, master plan, advance plan, preliminary plan, including feasibility studies."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 118

H.B. NO. 1931-78

A Bill for an Act Relating to Staff Mortgage Guarantee Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-12, Hawaii Revised Statutes, is amended by amending subsection (g) to read:

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\*Edited accordingly.

“(g) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the private lender may file a claim for the guaranteed portion of the overdue payments with the director of finance who may then authorize vouchers for these payments, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The director of finance shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower.”

SECTION 2. Section 359G-12, Hawaii Revised Statutes, is amended by amending subsection (k) to read:

“(k) There is created a special fund to be known as the “State mortgage guarantee fund”. All interest and fees collected under this section by the director of finance and the Hawaii housing authority shall be deposited into this fund. The purpose of the fund is to guarantee payment of loans made under this section and to carry on the operations of the director of finance and the authority in administering and granting loans under this section. All disbursements from the State mortgage guarantee fund shall be paid out on vouchers approved by the director of finance and warrants signed by the comptroller.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 119

H.B. NO. 2114-78

A Bill for an Act Relating to the Hawaii Community Development Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 206E-33, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 206E-33 Kakaako community development district; development guidance policies.** The following shall be the development guidance policies generally governing the authority’s action in the Kakaako community development district:

- (1) Development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and

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\*Edited accordingly.

private sectors in the proper development of this district; while the authority's development responsibilities apply only to the area within the district, the authority may engage in any studies or coordinative activities permitted in this chapter which affect areas lying outside the district, where the authority in its discretion decides that such activities are necessary to implement the intent of this chapter. Such studies or coordinative activities shall be limited to the facility systems, resident and industrial relocation, and other activities with the counties and appropriate state agencies. The authority shall not engage in any construction activities outside of the district.

- (2) Existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district. No plan or implementation strategy shall prevent continued activity or redevelopment of industrial and commercial uses which meet reasonable performance standards;
- (3) Activities shall be located so as to provide primary reliance on public transportation and pedestrian facilities for internal circulation within the district or designated subareas;
- (4) Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved through necessary regulation and design review;
- (5) Redevelopment of the district shall be compatible with plans and special districts established for the Hawaii Capital District, and other areas surrounding the Kakaako district;
- (6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;
- (7) Land use activities within the district, where compatible, shall to the greatest possible extent be mixed horizontally, that is, within blocks or other land areas, and vertically, as integral units of multi-purpose structures;
- (8) Residential development shall ensure a mixture of densities, building types, and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income shall be required as a condition of redevelopment in residential use. Residential development shall provide necessary community facilities, such as open space, parks, community meeting places, child care centers, and other services, within and adjacent to residential development;
- (9) Public facilities within the district shall be planned, located, and developed so as to support the redevelopment policies for the district established by this chapter and plans and rules adopted pursuant to it."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

A Bill for an Act Relating to General Powers of Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-17, Hawaii Revised Statutes is amended to read as follows:

**"Sec. 46-17 Regulation of certain public nuisances.** Any provision of law to the contrary notwithstanding, the council of any county may adopt and provide for the enforcement of ordinances regulating or prohibiting noise, smoke, dust, vibration, or odors which constitute a public nuisance. No such ordinance shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that in any case of conflict between the statute or rule and ordinance, the law which affords the most protection to the public shall apply; provided further that such ordinance shall not be effective to the extent that it is inconsistent with any permit for agricultural burning granted by the State department of health under authority of chapter 342, or to the extent that it prohibits, subjects to fine or injunction, or declares to be a public nuisance any agricultural burning which is conducted in accordance with such a permit."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

A Bill for an Act Relating to Motor Vehicle Accident Reparations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-31, Hawaii Revised Statutes is amended to read as follows:

**"Sec. 294-31 Fraudulent or frivolous claims.** Within the discretion of the court, an insurer or self-insurer may be allowed an award of a reasonable sum as attorney's fee, based upon actual time expended, and all reasonable costs of suit for its defense against a person making claim against such insurer or self-insurer where such claim is determined by the court to be fraudulent or frivolous, and such attorney's fee and all such reasonable costs of suit so awarded may be treated as an offset against any benefits due or to become due to such person.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

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\*Edited accordingly.

brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 122

H.B. NO. 2303-78

A Bill for an Act Relating to Notaries Public.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 456-1, Hawaii Revised Statutes is amended to read:

**“Sec. 456-1 Appointment; tenure.** The attorney general may, in his discretion, appoint and commission such number of notaries public for the State as he deems necessary for the public good and convenience.

The term of office of a notary public shall be four years from the date of his commission, unless sooner removed by the attorney general for cause after due hearing; provided, that after due hearing the commission of a notary public may be revoked by the attorney general in any case where any change occurs in the notary's office, occupation, residence, or employment which in his judgment renders the holding of such commission by the notary no longer necessary for the public good and convenience. Each notary shall upon any change in his office, occupation, residence, or employment, forthwith report the same to the attorney general.”

SECTION 2. Section 456-2, Hawaii Revised Statutes, is amended to read:

**“Sec. 456-2 Qualifications; oath.** Every person appointed a notary public shall, at the time of his appointment, be a resident of the State, possess the other qualifications required of public officers and be at least eighteen years of age. Every person appointed to that office shall, before entering thereon, take and subscribe an oath for the faithful discharge of his duties, which oath shall be filed in the department of the attorney general.”

SECTION 3. Section 456-3, Hawaii Revised Statutes, is amended to read:

**“Sec. 456-3 Seal.** Every notary public shall constantly keep a seal of office, whereon shall be engraved his name, and the words, “notary public” and “State of Hawaii.” He shall authenticate all of his official acts, attestations, certificates, and instruments therewith, and shall always add to his official signature a statement showing the date of expiration of his commission as notary public. Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office he shall immediately deliver his seal to the attorney general who shall deface or destroy the same. By a neglect of sixty days to comply with the above requisition, the notary public or his personal representative shall forfeit to the State not more than \$200, in the discretion of

\*Edited accordingly.

the court, to be recovered in an action to be brought by the attorney general on behalf of the State.”

SECTION 4. Section 456-4, Hawaii Revised Statutes, is amended to read:

**“Sec. 456-4 Filing copy of commission; authentication of acts.** Each person appointed and commissioned a notary public under this chapter shall forthwith file a literal or photostatic copy of his commission, an impression of his seal, and a specimen of his official signature with the clerk of the circuit court of each judicial circuit. Thereafter any clerk, when thereunto requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal, and specimen of official signature is so filed in his office.”

SECTION 5. Section 456-5, Hawaii Revised Statutes, is amended to read:

**“Sec. 456-5 Official bond.** Each notary public forthwith and before entering upon the duties of his office shall execute, at his own expense, an official surety bond which shall be in the sum of \$1,000. Each bond shall be approved by a judge of the circuit court.

The obligee of each bond shall be the State and the condition contained therein shall be that the notary public will well, truly, and faithfully perform all the duties of his office which are then or may thereafter be required, prescribed, or defined by law or by any rule or regulation made under the express or implied authority of any statute, and all duties and acts undertaken, assumed, or performed by the notary public by virtue or color of his office. The surety on any such bond shall be a surety company authorized to do business in the State. After approval the bond shall be deposited and kept on file in the office of the clerk of the circuit court of the judicial circuit in which the notary public resides. The clerk shall keep a book to be called the “bond record”, in which he shall record such data in respect to each of the bonds deposited and filed in his office as the attorney general may direct.”

SECTION 6. Section 456-16, Hawaii Revised Statutes is amended to read:

**“Sec. 456-16 Disposition of records, penalty.** The records of each notary public shall each year on June 30 and upon the resignation, death, expiration of term of office, or removal from or abandonment of office, be deposited with the clerk of the circuit court of the judicial circuit for and in which the notary public resides. By a neglect of sixty days to comply with the above requisition, the notary or his personal representative shall forfeit to the State not less than \$50 nor more than \$500, in the discretion of the court, in an action brought therefor by the attorney general on behalf of the State.”

SECTION 7. All notaries who are in office at the effective date of this Act shall continue in office until the expiration of their present commissions with the power to exercise notarial functionals throughout the State as provided by this Act; provided, however, that all such notaries shall first deposit with the clerk of the circuit court of the judicial circuit in which they reside the additional bond required by this Act.

SECTION 8. Statutory material to be repealed is bracketed. New material



is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 9. This Act shall take effect on January 1, 1979.

(Approved May 24, 1978.)

ACT 123

H.B. NO. 2312-78

A Bill for an Act Relating to Uniform Probate Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:3-1201, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-1201 Collection of personal property by affidavit.** Any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented a death certificate for the decedent and an affidavit made by or on behalf of the successor stating that:

- (1) The net value of the decedent's estate in this State does not exceed [\$100] \$1000;
- (2) No application or petition for the appointment of a personal representative is pending or has been granted in this State; and
- (3) The claiming successor is entitled to payment or delivery of the property and explaining the relationship of the claiming successor to the decedent."

SECTION 2. Section 560:3-1213, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-1213 Estates not in excess of [\$700] \$2,000.** Upon the death of any person dying intestate and leaving only personal property in the State not exceeding [\$700] \$2,000 and where a personal representative has not been appointed in the State, a clerk of the court of the judicial circuit wherein the person was domiciled or if not domiciled in the State, the judicial circuit wherein he was residing or had personal property at the time of his death, may, upon the filing with the clerk by any interested person of a death certificate issued by a government agency and of an affidavit setting forth the above facts, the names of the heirs if known, and other pertinent facts as required by the clerk, collect or otherwise reduce to possession or turn into cash all assets of the estate. If after payment of funeral expenses as a preferred claim against the estate there are assets remaining, the clerk shall give notice to creditors and heirs as provided by section 560:3-1206 by posting, or if there are sufficient funds, by posting and advertising, and if after the period and distribution of assets to creditors of

\*Edited accordingly.

deceased persons who have filed proper claims there are assets remaining, then the clerk upon the facts contained in the affidavit as to heirship, shall deliver the assets to the personal representative, if any, or if no personal representative has been appointed, then to the heirs in accordance with the statutes of descent of the State. If no creditors, personal representative, or heirs appear or are found within sixty days of the notice, the clerk shall convert all personal property into cash and forthwith deposit the same with the state director of finance for disposition as provided in chapter 523.”

SECTION 3. Section 560:1-201, Hawaii Revised Statutes, is amended by amending paragraph (24) to read as follows:

“(24) “Interested person” includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, or guardian, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. A person’s status as an interested person terminates when he no longer has an interest in the estate.”

SECTION 4. Section 560:2-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

[“(b) If a married person not domiciled in this State dies, the right, if any, of the surviving spouse to take an elective share in property in this State is governed by the law of the decedent’s domicile at death.]

“(b) If a married person not domiciled in this State dies possessed of any right, title or interest in or to real property located in this State, including interests under agreement of sale, title to such right, title or interest shall vest, and the right, if any, of the surviving spouse to take an elective share in such right, title or interest, shall be governed, by the laws of this State. If a married person not domiciled in this State dies, the right, if any, of the surviving spouse to take any elective share in any property other than those described in the immediately preceding sentence is governed by the law of the decedent’s domicile at death.”

SECTION 5. Section 560:2-401, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 560:2-401 Homestead allowance.** A surviving spouse of a decedent who was domiciled in this State is entitled to a homestead allowance of \$5,000 [.] which may be taken in cash or property. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to \$5,000 divided by the number of minor and dependent children of the decedent. The homestead allowance has priority as specified in section 560:3-805. The homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided, by intestate succession or by way of elective share.”

SECTION 6. Section 560:2-504, Hawaii Revised Statutes, is amended to

read as follows:

**“Sec. 560:2-504 Self-proved will.** An attested will may at the time of its execution or at any subsequent date be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs, and evidenced by the officer’s certificate, under official seal, attached or annexed to the will substantially in form and content as follows:

THE STATE OF .....  
COUNTY OF .....

We, ....., and .....,  
the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will, [and] that he [had] signed willingly or directed another to sign for him, and that he executed it as his free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness; and that to the best of [his] their knowledge the testator was at that time eighteen or more years of age, of sound mind and under no constraint or undue influence.

.....  
Testator  
.....  
Witness  
.....  
Witness

Subscribed, sworn to and acknowledged before me by .....,  
the testator, and subscribed and sworn to before me by .....,  
and ....., witnesses, this ..... day  
of .....

(SEAL) (Signed) .....  
(Official capacity of officer)"

**SECTION 7.** Section 560:3-204, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 560:3-204 Demand for notice of order or filing concerning decedent’s estate.** Any interested person desiring notice of any order or filing pertaining to a decedent’s estate may file a demand for notice with the court at any time after the death of a decedent stating the name of the decedent, the nature of his interest in the estate, and the demandant’s address or that of his attorney. The clerk shall mail a copy of the demand to the personal representative if one has been appointed. After filing of a demand, no order or filing to which the demand relates shall be made or accepted without notice as prescribed in section 560:1-401 to the demandant or his attorney [.] upon payment by the demandant or his attorney for the cost of reproducing the copies demanded. The validity of an order which is issued or filing which is accepted without compliance with this requirement shall not be affected by the error, but the petitioner receiving the order or the person

making the filing may be liable for any damage suffered by the damandant on account of the absence of notice. The requirement of notice arising from a demand under this provision may be waived in writing by the demandant and shall cease upon the termination of his interest in the estate.”

SECTION 8. Section 560:2-801, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) A person or the representative of an incapacitated or protected person, or the personal representative of a deceased person with the written consent of all affected beneficiaries, who is an heir, devisee, grantee, donee, surviving joint tenant, person succeeding to a renounced interest, beneficiary under a testamentary instrument or nontestamentary instrument, who has not accepted the property or interest to be renounced, or appointee under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument, may renounce in whole or in part the right of succession to, or transfer to him of, any property or interest therein, including a future interest, by filing a written renunciation under this section.

A surviving joint tenant or tenant by the entireties may renounce as a separate interest any property or interest therein devolving to him by right of survivorship. A surviving joint tenant or tenant by the entireties may renounce the entire interest in any property, or interest therein, that is the subject of a joint tenancy or tenancy by the entireties devolving to him, if the joint tenancy was created by act of a deceased joint tenant or tenant by the entireties, if the survivor did not join in creating the joint tenancy or tenancy by the entireties, and he has not accepted a benefit thereunder.

[The right to renounce does not survive the death of the person having it.] The instrument shall (1) describe the property or interest renounced, (2) declare the renunciation and extent thereof, and (3) be signed by the person renouncing.

- (b) (1) An instrument renouncing a present interest shall be filed not later than [six] nine months after the death of the decedent or the donee of the power.
- (2) An instrument renouncing a future interest shall be filed not later than [six] nine months after the event that determines that the taker of the property or interest is finally ascertained and his interest indefeasibly vested.
- (3) The renunciation shall be filed in the court of the judicial circuit in which proceedings have been commenced for the administration of the estate of the deceased owner or deceased donee of the power or, if they have not been commenced, in which they could be commenced. A copy of the renunciation shall be delivered in person or mailed by registered or certified mail to any personal representative, or other fiduciary of the decedent or donee of the power. If real property or an interest therein is renounced, a copy of the renunciation [may] shall be recorded or filed in the bureau of conveyances or the office of the assistant registrar of the land court, as appropriate [.] and shall not be effective until such recordation or filing.
- (c) Unless the decedent or donee of the power has otherwise provided, the

property or interest renounced devolves as if the person renouncing had predeceased the decedent or, if the person renouncing is designated to take under a power of appointment exercised by a testamentary or nontestamentary instrument, as if the person renouncing had predeceased the donee of the power. A future interest that takes effect in possession or enjoyment after the termination of the estate or interest renounced takes effect as if the person renouncing had predeceased the decedent or the donee of the power. A renunciation relates back for all purposes to the date of the death of the decedent or the donee of the power."

SECTION 9. Statutory material to be repealed is bracketed, new material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 124

H.B. NO. 2499-78

A Bill for an Act Relating to the Residential-Landlord Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-21, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 521-21 Rent.** (a) The landlord and tenant may agree to any consideration, not otherwise prohibited by law, as rent. In the absence of such agreement, and subject to section 521-71(c) in the case of holdover tenants, the tenant shall pay to the landlord the fair rental value for the dwelling unit.

(b) Rents shall be payable at the time and place agreed to by the parties. Unless otherwise agreed, the entire rent shall be payable at the beginning of any term for one month or less, and for longer terms in equal monthly installments payable at the beginning of each month.

(c) Except as otherwise provided in subsection (b), rent shall be uniformly apportionable from day to day.

(d) When the tenancy is from month to month, the amount of rent for such tenancy shall not be increased by the landlord without written notice given [twenty-eight days preceding the end of such tenancy.] forty-five consecutive days prior to the effective date of the increase.

(e) When the tenancy is less than month to month, the amount of rent for such tenancy shall not be increased by the landlord without written notice given fifteen consecutive days prior to the effective date of the increase."

SECTION 2. Section 521-71, Hawaii Revised Statutes, is amended to read:

**"Sec. 521-71 Termination of tenancy; landlord's remedies for holdover tenants.** (a) When the tenancy is month to month, the landlord or the tenant may terminate the rental agreement upon his notifying the other at least twenty-eight

days in advance of the anticipated termination or in cases of voluntary demolition of the dwelling units, ninety days in advance of the anticipated demolition. If notice is revoked or amended and re-issued, the ninety day period shall begin from the date it was re-issued or amended.

(b) When the tenancy is less than month to month, the landlord or the tenant may terminate the rental agreement upon his notifying the other at least ten days before the anticipated termination.

(c) Whenever the term of the rental agreement expires, whether by passage of time, by mutual agreement, by the giving of notice as provided in subsection (a) or (b), or by the exercise by the landlord of a right to terminate given under this chapter, if the tenant continues in possession after the date of termination without the landlord's consent, the tenant shall be liable for and shall pay to the landlord a sum not to exceed twice the monthly rent under the previous rental agreement, computed and prorated on a daily basis, for each day he remains in possession for any period up to one month. If the tenant remains in possession for a period longer than one month, he shall be liable for and shall pay to the landlord a sum equal to the monthly rent under the previous rental agreement for each additional month or fraction thereof. The landlord may bring a summary proceeding for recovery of the possession of the dwelling unit at any time during the first sixty days of holdover, except that the landlord's acceptance of rent in advance after the first month of holdover shall create a month-to-month tenancy in the absence of an agreement between the parties to the contrary at the time of such acceptance.

(d) Any notice of termination initiated for the purposes of evading the obligations of the landlord under subsections 521-21 (d) or (e) shall be void."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 125

H.B. NO. 2764-78

A Bill for an Act Relating to Sale and Distribution of Session Laws, Supplements and Replacement Volumes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 23G-18, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 23G-18 Sale and distribution.** The session laws, supplements, and replacement volumes shall be sold and distributed by the lieutenant governor at a price fixed by him. The money received therefor shall be paid into the state treasury to the credit of the general fund. The lieutenant governor may furnish the session laws, supplements, and replacement volumes to public officials for official use free of charge. As used in this chapter, public officials include officials

of the State and county governments, of the congressional delegation of the State, of the United States District Court, District of Hawaii, and of the United States Attorney's Office in Hawaii."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 126

H.B. NO. 2814-78

A Bill for an Act Relating to Degree Granting Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 446D-7, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 446D-7 Advisory committee on degree granting institutions.** There is established an advisory committee on degree granting institutions consisting of the president of the University of Hawaii and eight other members appointed by the governor as provided in section 26-34. Six of the appointed members shall be the presidents or chief administrative officers of licensed degree granting institutions and two of the appointed members shall be persons appointed from the public at large. The president of the University of Hawaii shall serve as chairman. The advisory committee shall advise the director on all matters pertaining to the administration of this chapter and the granting and renewal of licenses and temporary permits to degree granting institutions. Members of the advisory committee shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in the process of discharging their responsibilities under this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 127

H.B. NO. 2860-78

A Bill for an Act Relating to Costs and Fee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 607-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

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\*Edited accordingly.

“(d) Sheriff’s or police officer’s fees:

- (1) For serving any criminal summons, warrant, attachment, or other criminal process, \$10.
- (2) For serving any civil summons, warrant, attachment, or other civil process, [\$5.] \$6 effective July 1, 1978 and \$7 effective July 1, 1979.
- (3) For every copy of an attachment and inventory of the property attached, served upon the defendant, \$1.50.
- (4) For serving any execution, 12 cents for every \$1 collected up to \$50, and 7 cents for every \$1 over \$50.
- (5) For serving subpoena or garnishee summons, [\$3] \$5.
- (6) For every mile of travel, more than one, in serving any process, [12] 15 cents; provided that (A) no such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof; (B) where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services, more than the mileage for the entire trip; and (C) as far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police or other serving officer upon the island of service, who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may be addressed to the officer actually making such service or to his superior.”

SECTION 2. Section 607-8, Hawaii Revised Statutes, is amended to read:

“**Sec. 607-8 Sheriff’s or serving or levying officer’s fees in circuit or supreme courts.** For all necessary travel in making such service, per mile for every mile more than one . . . . . [12] 15 cents provided, that:

- (1) No such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof;
- (2) Where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services more than the mileage for the entire trip; and
- (3) As far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police or other serving officer upon the island of service who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may not be addressed to the officer actually making such service or to his superior.

For serving criminal summons or any other criminal process except a subpoena, for each person served therewith . . . . . \$10.



For serving civil summons or any other civil process, except a subpoena or a garnishee summons, for each person served therewith . . . . [55.] \$6 effective July 1, 1978 and \$7 effective July 1, 1979.

For serving subpoena or ganishee summons, for each person . . [33.] 55.

For returning as unserved after due and diligent search any process when it has been found that the person to be served has left the State . . . . . \$2.

For serving any execution or other process for the collection of money, for every dollar collected up to \$500 . . . . . 5 cents.

And for every dollar over \$500 . . . . . 2½ cents.

All fees paid to any printer for publishing an advertisement of the sale of any property;

For every bill of sale . . . . . \$1.

For executing and acknowledging a deed pursuant to a sale of real estate to be paid by the grantee in such deed . . . . . \$5.

For drawing any bond required by law . . . . . \$1.

For serving writ of possession or restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to order of courts . . . . . \$1.

Together with all necessary expenses incurred by the officer serving the writ, incident to the eviction.

For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution.

The fees for service of executions, attachments and collection of judgments, together with all costs incurred after judgment rendered, not included in the judgment, shall, in all the courts of the State, be collected in addition to the sum directed to be levied and collected in the writ.

Anything in this section or any other law to the contrary notwithstanding, when any process or subpoena is served by a subordinate of the sheriff or chief of police, it shall be illegal for the sheriff or chief of police (1) if and so long as he is being paid a salary by the State or the county to receive or collect from such subordinate any portion of the fees, mileage or other expenses collected by such subordinate, or (2) if and so long as such sheriff or chief of police is not being paid any such salary, to collect or receive from such subordinate more than ten per cent of the fees accruing from such service, or any portion of the mileage or other expenses collected by such subordinate. Where a subpoena is served in behalf of the State or any county a nonsalaried subordinate of the sheriff or chief of police, the regular fee for such service shall be payable to such subordinate. Nothing herein contained shall be deemed to prohibit the police commission of any county from requiring all such fees, mileage and expenses be paid into a police benefit fund."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

A Bill for an Act Relating to the Department of Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 10, Special Session Laws of Hawaii 1977, is amended by amending part III, section 9, to read as follows:

“SECTION 9. Provided, that of the appropriation to the Overall Program Support for Transportation Facilities and Services Program (TRN 995), no more than \$1,420 shall be expended to reimburse the City and County of Honolulu for planning work to be accomplished by the City.”

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

A Bill for an Act Relating to Health Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to amend the voting requirement for the Hawaii Statewide Health Coordinating Council and Sub-area Health Planning Councils so that any decision of the councils may be validated by a vote of the majority of the members present at a meeting when a majority of the members who have accepted nomination, and been confirmed and qualified as members are present.

The purpose of this Act is also to make a technical amendment to the definition in Section 323D-43, Hawaii Revised Statutes and to amend Section 323D-11, Hawaii Revised Statutes, to provide that the Administrator of the State health planning and development agency shall be appointed by the Governor subject to section 26-34.

SECTION 2. Section [323D-11],† Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 323D-11 State health planning and development agency.** There is established within the Department of Health for administrative purposes only, the State health planning and development agency. The State agency shall be headed by an administrator who shall be appointed by the Governor [...] subject

\*Edited accordingly.

†“323D-11” substituted for “323-11” to correct obvious clerical error.

to section 26-34. The State agency shall administer the State health planning activities pursuant to Public Law 93-641 or other subsequent Acts of Congress which may amend, repeal, or succeed Public Law 93-641."

SECTION 3. Section 323D-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 323D-13 Statewide health coordinating council.** (a) There is established a statewide health coordinating council which shall be advisory to the State agency pursuant to Public Law 93-641, section 1524 and whose membership shall not exceed thirty members.

(b) The statewide council shall be appointed by the Governor in accordance with section 26-34. The membership of the statewide council shall be broadly representative of the age, sex, ethnic, income, and other groups that make up the population of the State and shall consist of:

- (1) One representative from each subarea council established in accordance with the provisions of section 323D-21.
- (2) Not less than fifty-one percent nor more than sixty percent of the membership shall be consumers of health care.
- (3) Not less than one-third of the members who are providers of health care shall be direct providers of health care.
- (4) Public elected officials and other representatives of governmental authorities and representatives of public agencies concerned with health which is not more than one-third of the total membership.
- (5) Representatives of private agencies concerned with health.
- (6) A percentage of individuals who reside in nonmetropolitan areas which is equal to the percentage of residents of the area who reside in nonmetropolitan areas.

In addition the total membership shall include representation as may be required by applicable federal law or implementing regulations.

(c) The statewide council shall select a chairman from among its members. The members of the statewide council shall not be compensated but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(d) The number of members necessary to constitute a quorum to do business shall consist of a majority of all members who have accepted nomination to the council, and have been confirmed and qualified as members of the council. When a quorum is in attendance, the concurrence of a majority of the members in attendance shall make any action of the council valid."

SECTION 4. Section 323D-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 323D-22 Subarea health planning councils, functions [ ], quorum and number of members necessary to take valid action.** (a) Each subarea health planning council shall review, seek public input, and make recommendations relating to health planning for the geographical subarea it services. In addition, the subarea health planning councils shall:

- (1) Identify and recommend to the State agency and the council the data needs and special concerns of the respective subareas with respect to the

preparation of the State plan.

- (2) Provide specific recommendations to the State agency and the council regarding the highest priorities for health services and resources development.
- (3) Review the State health plan, the medical facilities plan and the annual implementation plan as they relate to the respective subareas and make recommendations to the State agency and the council.
- (4) Advise the State agency in the administration of the certificate of need program for their respective subareas.
- (5) Advise the State agency and the statewide council in the administration of the program to review applications for federal funds pursuant to section 323D-14(5).
- (6) Advise the State agency on the cost of reimbursable expenses incurred in the performance of their functions for inclusion in the State agency budget.
- (7) Advise the State agency in the performance of its specific functions.
- (8) Perform other such functions as agreed upon by the State agency and the respective subarea councils.
- (9) Each respective subarea health planning council shall recommend for gubernatorial appointment one person from its membership to be on the statewide council.

(b) The number of members necessary to constitute a quorum to do business shall consist of a majority of all the members who have accepted nomination to the council, and have been confirmed and qualified as members of the council. When a quorum is in attendance, the concurrence of a majority of the members in attendance shall make any action of the council valid.

SECTION 5. Section 323D-41, Hawaii Revised Statutes, is amended by amending the definition of “construct”, “expand”, “alter”, “convert”, “develop”, “initiate”, or “modify” to read as follows:

- “(4) “Construct”, “expand”, “alter”, “convert”, “develop”, “initiate”, or “modify” includes the erection, building, reconstruction, modernization, improvement, purchase or establishment of a health care facility or health care service; the purchase or acquisition of equipment attendant to the delivery of health care service and the instruction or supervision therefor; the arrangement or commitment for financing the offering or development of a health care facility or health care service; and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary for any such undertaking, which will:
- (A) Result in a total capital expenditure in excess of \$150,000, or
  - (B) Substantially modify, decrease, or increase the scope or type of health service rendered, or
  - (C) Increase, decrease, or change the class of usage of the bed complement of a health care facility.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 130

H.B. NO. 3012-78

A Bill for an Act Relating to Communicable Diseases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 325- Infectious and communicable diseases, examination and treatment.** United States citizens or nationals, upon returning to this State after five or more years residence in any territory or possession of the United States, or any foreign country, with a high occurrence of infectious and communicable diseases, shall submit a medical examination report that shall include a tuberculin skin test or a chest x-ray examination, and in the case of a positive skin test a chest x-ray report shall be submitted, to the Department of Health within sixty days of return to this State. The Department of Health shall cooperate with public and private authorities, where feasible, in implementing this section."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1978.)

ACT 131

S.B. NO. 1581-78

A Bill for an Act Relating to an Appropriation for Research, Development, Demonstration, and Utilization of Alternate Energy Sources for Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. (a) There is appropriated out of the general obligation bond fund the sum of \$3,845,000, or so much thereof as may be necessary, for the funding of research and development, applications, and demonstrations directed toward the development and utilization of alternate energy resources. The projects proposed for funding are based on recommendations made by the special energy task forces established by the senate committee on energy/natural resources during the summer of 1977. The program areas, funding levels, source of fund, and expending agencies are as follows:

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\*Edited accordingly.

## ACT 131

PROGRAM AREA	FUNDING (Thousands) FY 1978-79	SOURCE OF FUNDING	EXPENDING AGENCY
CIP			
BIOMASS			
1. HC&S Ethanol Plant	\$ 500	C	UOH
2. Corn-Ethanol Program	330	C	AGR
3. Energy Tree Farms	500	C	LNR
4. Other Biomass R&D (CIP)	200	C	UOH
Subtotal	1,530		
GEOTHERMAL			
1. State Geothermal Match	200	C	UOH
OCEAN ENERGY			
1. Off-shore Pipes/ Barges	1,225	C	UOH
SOLAR/WIND			
1. Solar Irrigation Demo	100	C	AGR
2. Solar Ag. Application	100	C	AGR
3. State Bldg. Solar HW	100	C	PED
4. Photovoltaic Demo	50	C	UOH
5. State Solar Air Cond.	100	C	UOH
6. Engineering Analysis	150	C	UOH
7. Wind-Direct Pumping Demo.	50	C	AGR
8. Wind-Electric Demo.	40	C	UOH
9. Wind-Hydro Demo.	200	C	UOH
Subtotal	890		
Total CIP	3,845		

(b) For the purpose of this Act:

“Expending agency” means the executive department which is authorized to expend specified appropriations made by this Act. Abbreviations, where used to denote the expending agency shall mean the following:

AGR Department of Agriculture;

LNR Department of Land and Natural Resources;

PED Department of Planning and Economic Development;

UOH University of Hawaii.

The source of funding letter symbol “C” means the general obligation bond fund.

SECTION 2. To insure maximum utilization of State funds, to eliminate duplication of effort, and to minimize overlapping of programs, each expending agency designated in section 1 of this Act shall coordinate its planned expenditures with the Energy Resources Coordinator. Federal, county, and private funds shall be sought for projects where feasible.

SECTION 3. The director of finance is authorized to issue general obligation bonds of the State to yield the amount of \$3,845,000 appropriated by this Act. The appropriations for capital investment projects authorized by this Act which are unencumbered as of June 30, 1982 shall lapse as of that date; provided that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement.

SECTION 4. This Act shall take effect on July 1, 1978.  
(Approved May 30, 1978.)

ACT 132

H.B. NO. 2165-78

A Bill for an Act Relating to the Purchase by a Public Utility of Geothermal Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and Purpose.** The Legislature finds commercial development of the State's geothermal energy resources requires an assurance to the producer of geothermal energy that his product can be sold at a just and reasonable rate. The Legislature further finds that it is in the public interest to establish procedures in order that the interests of the producer, the public utility, and the consumer may be considered in establishing a just and reasonable rate for the purchase of geothermal energy by a public utility.

It is the purpose of this Act to promote the commercial development of geothermal energy and to protect the interests of the producer, the public utility, and the consumer by establishing procedures under which the public utilities commission shall determine just and reasonable rates payable by a public utility to a producer of geothermal energy.

**SECTION 2. Means.** Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 269- Establishment of geothermal energy rates.** (a) The rate payable by a public utility to the producer of geothermal steam or electricity generated from geothermal steam shall be established by agreement between the public utility and the supplier, subject to approval by the public utilities commission; provided that, if the public utility and the supplier fail to reach an agreement for such rate, or if the agreed upon rate is disapproved by the commission, the public utilities commission shall establish a just and reasonable rate for the geothermal steam or electricity generated from geothermal steam supplied to the public utility by the producer.

(b) The producer of geothermal steam or electricity generated from geothermal steam shall be excluded from coverage of the term "public utility" as defined in section 269-1."

**SECTION 3.** New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

**SECTION 4.** This Act shall take effect upon its approval.  
(Approved May 30, 1978.)

\*Edited accordingly.

A Bill for an Act Relating to Energy Conservation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 46- Energy conservation standards for building design and construction.** (a) Energy efficiency building standards based on the design requirements for improvements of energy utilization in buildings developed and approved by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Incorporated (ASHRAE 90), meeting the requirements of Public Law 94-163 shall be incorporated by each county into its building code by July 1, 1978. The energy efficiency building standards shall apply to all new and renovated buildings, including State buildings.

(b) The energy efficiency building standards shall not apply to exempted buildings. For the purposes of this section, "exempted building" means:

- (1) Any building whose peak design rate of energy usage is less than one watt per square foot of floor area for all purposes;
- (2) Any building with neither a heating nor cooling system;
- (3) Any building owned or leased in whole or in part by the United States;
- (4) Any building that is deliberately preserved beyond its normal term of use because of historic significance, architectural interest, or public policy or that qualifies for special historic building code provisions; and
- (5) Dwelling units with air conditioning systems totaling less than 12,000 BTUH capacity.

For special applications such as hospitals, laboratories, thermally sensitive equipment, computer rooms, and manufacturing and industrial processes, the design concepts and parameters shall conform to the requirements of the application at minimum energy levels, provided that where these special applications are described in the ASHRAE handbook and product directory, applications volume, the criteria described therein shall be used.

(c) The energy efficiency building standards shall be enforced at the time of construction of a new building or at the time of major addition, alteration, or repair of an existing building when the proposed major addition, alteration, or repair must comply with the standards applicable to new buildings under the applicable county building code. No official of the State nor of any county charged with the enforcement of laws or ordinances pertaining to the construction or alteration of buildings or structures shall accept or approve any plan or specification including or pertaining to the design and construction details and standards for a heating or cooling system unless the energy efficiency building standards are met. All such plans and specifications submitted with or in connection with an application for a building or construction permit shall bear the certification by a registered architect or engineer that the plans and specifications comply with the energy efficiency building standards.

(d) At such time as performance standards that address the overall energy



performance of buildings are promulgated pursuant to the Energy Conservation Standards for New Buildings Act of 1976, title III of the Energy Conservation and Production Act, Public Law 94-385, such standards shall be considered for adoption by each county and shall be incorporated into its building code in addition to the standard adopted pursuant to subsection (a) above, as required by federal law.”

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 46- Energy efficiency standards for lighting for existing buildings.**

(a) Energy efficiency standards for lighting, based on a lighting power limit and meeting the requirements of Public Law 94-163, shall be incorporated by each county of the State into its building code by July 1, 1978.

(b) The energy efficiency standards for lighting shall not apply to exempted buildings. For the purposes of this section, “exempted building” means:

- (1) Any building whose peak design rate of energy usage is less than one watt per square foot of floor area for all purposes;
- (2) Any building with neither a heating nor cooling system;
- (3) Any building owned or leased in whole or in part by the United States;
- (4) Any building that is deliberately preserved beyond its normal term of use because of historic significance, architectural interest, or public policy or that qualifies for special historic building code provisions;
- (5) Any building the gross interior floor area of which or the non-residential gross interior floor area of which is less than ten thousand square feet; and
- (6) Any portion of a multi-use building used solely for residential purposes.

(c) The energy efficiency standards for lighting shall be enforced at the time when additions, alterations, or repairs are made to an existing building. No official of the State nor of any county charged with the enforcement of laws or ordinances pertaining to the alteration of buildings or structures shall accept or approve any plan or specification including or pertaining to the design and construction details and standards for lighting unless the energy efficiency standards for lighting are met.

(d) The energy efficiency standards for lighting specified by this section shall not apply to proposed additions, alterations, or repairs that must comply with the standards applicable to new buildings under the applicable county building code.”

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

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\*Edited accordingly.

A Bill for an Act Relating to Energy Efficient Procurement Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to require the State and counties to include energy efficiency standards in their procurement practices.

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 103- Energy efficiency through life-cycle costing.** (a) The procurement practices of the State and its counties shall include energy efficiency standards and policies, including life-cycle costing. These shall be developed and introduced into procurement procedures by July 1, 1978.

"(b) In implementing life-cycle costing, the purchasing agent shall be guided by energy efficiency standards and policies for purchasing various items developed and promulgated by the U.S. Department of Energy and other Federal agencies, and by nationally recognized trade associations, including but not limited to the Institute of Government Purchasing Agents, the Purchasing Management Association, and the Air Conditioning and Refrigeration Institute. The purchasing agent shall notify bidders of information, procedures and forms required in implementing energy efficiency standards and policies. The information required shall include purchasing standards and policies developed by Federal agencies and by nationally recognized agencies and associations, as well as energy consumption and life-cycle cost data.

(c) The purchaser shall consider purchasing via the life-cycle costing method those classes of items for which nationally recognized energy efficiency data have been developed. These items shall include but not be limited to automobiles and air conditioning systems. The watt-saving variety of common-sized fluorescent lamps shall be purchased except where standard wattage of such lamps is specifically required by the using agency."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

A Bill for an Act Relating to the Reservation and Disposition of Government Mineral Rights.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

SECTION 1. Section 182-1, Hawaii Revised Statutes, is amended by amending the definition of “occupier” to read:

““Occupier” means any person who owns in fee the surface of the land or any person entitled to the possession of land under a certificate of occupation, a nine hundred and ninety-nine year homestead lease, a right of purchase lease, a cash freehold agreement, and any person entitled to possession under a general lease from the State, and also means and includes the assignee of any one of the above.”

SECTION 2. Section 182-3, Hawaii Revised Statutes, is amended to read:

**“Sec. 182-3 Bond; compensation of occupiers.** (a) Every lessee of a mining lease granted under this chapter and every assignee thereof shall file with the board of land and natural resources a bond, in a form and in an amount approved by the board, made payable to the State and which shall be conditioned upon the faithful performance by the lessee of all the requirements of this chapter and of the mining lease, and also conditioned upon the full payment by the lessee of all damages suffered by the occupiers hereinunder mentioned. If the State sells or leases its mineral rights on land which it or its predecessors in interest have granted or leased, or which it may hereafter sell or lease, and the land thereof including any crops or improvements is damaged by any mining or other incidental operations, including exploratory work, or by the failure of the lessee of the mining lease to properly restore the land after termination of the operations, the occupier shall be reimbursed the full extent of the damages caused by the mining operations of the lessee to be allocated between the lessee and the fee owner in accordance with the lease terms, if any.

(b) Nothing herein shall be construed to prevent the occupier from demanding and receiving rentals from the lessee of the mining lease or to forbid and prevent the occupier and the lessee from agreeing upon the amount of damages to be paid and the terms and conditions of payment. The occupier may in writing before or within thirty days after the public auction notify the board that he elects to have the amount of damages and the amount of rentals to be paid as a result of the mining lease determined by arbitration with the successful bidder. In such event, the occupier shall notify the successful bidder of his election to arbitrate, and the arbitration shall proceed in accordance with chapter 658. The arbitrators in fixing the amount of damages to be paid to the occupier shall award him the amount which in their judgment shall fairly compensate the occupier for the damages he may suffer to his crops or improvements or to the surface or condition of his land caused by the mining of other incidental operations, including exploratory work, and a reasonable rental for the use of the surface.”

SECTION 3. Section 182-4, Hawaii Revised Statutes, is amended to read:

**“Sec. 182-4 Mining leases on state lands.** If any mineral is discovered or known to exist on state lands, any interested person may notify the board of land and natural resources of his desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and such information and maps as the board by

regulation may prescribe. As soon as practicable thereafter, the board shall cause a notice to be published in a newspaper of general circulation in the county where the lands are located, at least once in each of three successive weeks, setting forth the description of the land, and the minerals desired to be leased. The board may hold the public auction of the mining lease within six months from the date of the first publication notice or such further time as may be reasonably necessary. Whether or not the state land sought to be auctioned is then being utilized or put to some productive use, the board, after due notice of public hearing to all parties in interest, within six weeks from the date of the first publication of notice or such further time as may be reasonably necessary, shall determine whether the proposed mining operation or the existing or reasonably foreseeable future use of the land would be of greater benefit to the State. If the board determines that the existing or reasonable foreseeable future use would be of greater benefit to the State than the proposed mining use of the land, it shall disapprove the application for a mining lease of the land without putting the land to auction. The board shall determine the area to be offered for lease and, after due notice of public hearing to all parties of interest, may modify the boundaries of the land areas. At least thirty days prior to the holding of any public auction, the board shall cause a notice to be published in a newspaper of general circulation in the State at least once in each of three successive weeks, setting forth the description of the land, the minerals to be leased, and the time and place of the auction. Bidders at the public auction may be required to bid on the amount of annual rental to be paid for the term of the mining lease based on an upset price fixed by the board, a royalty based on the gross proceeds or net profit, cash bonus, or any combination or other basis and under such terms and conditions as may be set by the board."

SECTION 4. Section 182-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 182-5 Mining leases on reserved lands.** If any mineral is discovered or known to exist on reserved lands, any interested person may notify the board of land and natural resources of his desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and such information and maps as the board may by regulation prescribe. The board may grant a mining lease on reserved lands in accordance with section 182-4, or the board may, by the vote of two-thirds of its members, to which the board is entitled, without public auction, grant a mining lease on reserved lands to the occupier thereof. Such a mining lease may be granted to a person other than the occupier if the occupier has assigned his rights to apply for a mining lease to another person, in which case only such an assignee may be granted a mining lease. If the occupier or his assignee of the right to obtain a mining lease should fail to apply for a mining lease within six months from the date of notice from the board of a finding by the board that it is in the public interest that the minerals on the reserved lands be mined, a mining lease shall be granted under section 182-4; provided that bidders at the public auction shall bid on an amount to be paid to the State for a mining lease granting to the lessee the right to exploit minerals reserved to the State."

SECTION 5. Section 182-7, Hawaii Revised Statutes, is amended to read:

**“Sec. 182-7 Lease.** Prior to the public auction contemplated in section 182-4 or 182-5, or the granting of mining lease without public auction contemplated in section 182-5, the board of land and natural resources shall cause a mining lease for the land in question to be drawn. The lease shall describe the land and shall contain, in addition to such other provisions which the board may deem appropriate, provisions to the following effect:

- (1) The term of the lease shall be sixty-five years or for a lesser period at the discretion of the board.
- (2) The payments to the State as fixed by the board; provided, that in the case of bauxite, bauxitic clay, gibbsite, diaspore, boehmite, and all ores of aluminum, the amount of royalties for each long dry ton of ore as beneficiated shall not be less than twenty-five cents or the equivalent of the price of one pound of virgin pig aluminum, whichever is higher, nor shall it exceed the equivalent of the price of three pounds of virgin pig aluminum; provided further, that the rate of royalty for ore processed into aluminous oxide in the State shall be set at eighty per cent of the rate of royalty for ore not processed to aluminous oxide in the State; and provided further, that the royalty shall be fixed at a rate which will tend to encourage the establishment and continuation of the mining industry in the State. The prices of virgin pig aluminum for the purpose of determining the royalties hereunder shall be the basic price on the mainland United States market for virgin pig, not refined, f.o.b. factory. The royalties shall be in lieu of any severance or other similar tax on the extracting, producing, winning, beneficiating, handling, storing, treating, or transporting of the mineral or any product into which it may be processed in the State, and shall not be subject to reopening or renegotiating for and during the first twenty years of the lease term.

In the event the lessee desires to mine other minerals, the lessee shall, before mining the minerals, so notify the board in writing, and the board and the lessee shall negotiate and fix the royalties for such minerals.

- (3) The lessee shall covenant and agree that the lessee shall commence mining operations upon the leased lands within three years from the date of execution of the lease; provided, that so long as the lessee is actively and on a substantial scale engaged in mining operations on at least one such lease on the same minerals, the covenant shall be suspended as to all other leases held by the lessee.

Any interested party may, however, request that a mining lease contain a research period under which the lessees shall be required to expend money in research and development to establish a method to make economical the mining and processing of the mineral deposits contained in the lease. If the board determines that the research period would be beneficial it shall fix the period of research and shall also fix a minimum expenditure for labor performed or money spent by the lessee in research and development and the method by which the lessee shall establish that such expenditure in fact be made. In such leases, the obligation to commence mining operations within three years shall not

commence until the expiration of the research period.

- (4) For the period of the lease the lessee shall have the exclusive right of possession of the minerals leased and the exclusive rights to mine and remove the minerals by means which shall be reasonable and satisfactory to the board and to occupy and use so much of the surface of the land as may reasonably be required, subject to the provisions of section 182-3. The right to use the surface shall include the right to erect transportation facilities thereon, construct plants for beneficiating, drying, and processing the minerals for electric power generation and transmission and such other uses as may be necessary or convenient to the winning and processing of the minerals; provided, that the lessee shall comply with all water and air pollution control laws, rules and regulations of the State or its political subdivisions.
- (5) The lessee may retain all minerals separated from the land as a part of the process of mining the minerals specified in the mining lease; provided, that the lease may prescribe the accounting and testing procedures by which the amount and quality of such additional materials shall be determined for the purpose of computing the excise tax thereon."

SECTION 6. Section 182-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 182-8 Number of leases; acreage limitations; area covered by lease.**

The board is authorized to impose a limitation on the number of leases or acres which a mining lessee or his transferee may hold under such terms and conditions as the board determines to be in the best interest of the State. No lease shall grant and include an area of land exceeding four square miles of contiguous land, in which the longest dimension of the area demised shall exceed its narrowest dimension by more than six times unless otherwise approved by the board."

SECTION 7. Section 182-10, Hawaii Revised Statutes, is amended to read:

**"Sec. 182-10 Revocation of mining leases.** A mining lease may be revoked if the lessee fails to pay rentals when due or if any of the terms of the lease or of law are not complied with, or if the lessee wholly ceases all mining operations for other than reasons of force majeure or the uneconomic operation of the mining lease for a period of one year without the written consent of the board of land and natural resources; provided, that the board shall give the lessee notice of any default and the lessee shall have six months or such other time limit as provided by the rules and regulations from the date of the notice to remedy the default."

SECTION 8. Chapter 182, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 182- Unitization.** Upon motion by the board or petition filed by any mining lessee, the board, in its discretion, may order such lessees or owners of mineral rights on adjoining properties to collectively adopt, and operate under, a cooperative or unit plan of development, if the board finds that such a plan will prevent the waste of any mineral, increase the ultimate recovery, avoid the drilling, digging, or excavating of any unnecessary well, or for such other reason that would encourage and promote the development of any mineral resource."

SECTION 9. Chapter 182, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 182- Penalty for violation.** Any person who violates any provision of this chapter, or any regulation adopted pursuant hereto, shall be fined not more than \$500 for each offense. If any person after receiving written notice for a violation fails to cure such violation within such time and under such conditions as determined by the rules and regulations, such person shall be subject to a citation for a new and separate violation. There shall be a fine not more than \$500 for each additional violation."

SECTION 10. Chapter 182, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 182- Levy and assessment of general excise tax.** Notwithstanding any provision to the contrary, the levy and assessment of the general excise tax on the gross proceeds from any manner of sale of (i) geothermal resources or (ii) electrical energy produced by the geothermal resources producer from such geothermal resources, shall be made only as a tax on the business of a producer, at the rate assessed producers, under section 237-13 (2) (A)."

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 12. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

ACT 136

H.B. NO. 2166-78

A Bill for an Act Relating to Energy Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 196-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 196-3 Energy resources coordinator.** The director of planning and economic development shall serve as energy resources coordinator."

SECTION 2. Section 196-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 196-4 Powers and duties.** Subject to the approval of the governor, the coordinator shall:

- (1) Formulate plans, including objectives, criteria to measure accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the optimum development of Hawaii's energy resources;
- (2) Conduct systematic analysis of existing and proposed energy resource programs, evaluate the analysis conducted by government agencies and other organizations and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of energy sources;

- (3) Formulate and recommend specific proposals, as necessary, for conserving energy and fuel, including the allocation and distribution thereof, to the governor and to the legislature;
- (4) Assist public and private agencies in implementing energy conservation and related measures;
- (5) Coordinate the State's energy conservation and allocation programs with that of the federal government, other state governments, governments of nations with interest in common energy resources, and the political subdivisions of the State;
- (6) Develop programs to encourage private and public exploration and research of alternative energy resources which will benefit the State;
- (7) Conduct public education programs to inform the public of the energy situation as may exist from time to time and of the government actions taken thereto;
- (8) Serve as consultant to the governor, public agencies and private industry on matters related to the acquisition, utilization and conservation of energy resources;
- (9) Contract for services when required for implementation of this chapter;
- (10) Review proposed state actions which he finds to have significant effect on energy consumption and report to the governor their effect on the energy conservation program, and perform such other services as may be required by the governor and the legislature;
- (11) Prepare and submit an annual report and such other reports as may be requested to the governor and to the legislature on the implementation of this chapter and all matters related to energy resources; and
- (12) Adopt rules for the administration of this chapter pursuant to Chapter 91, provided that the rules shall be submitted to the legislature for review."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

ACT 137

S.B. NO. 1598-78

A Bill for an Act Relating to the Banning of Pilot Lights on Gas Appliances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that gas appliances with pilot lights that remain continually lighted in order to ignite the appliance constitute wasteful use of valuable energy resources. Alternate systems that can be used in lieu of gas pilot lights are currently commercially available.

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\*Edited accordingly.



The purpose of this Act is to foster the State's energy conservation program by banning the sale and installation of gas appliances with pilot lights.

SECTION 2. The Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. - Gas appliances with pilot light prohibited; exemptions.** (a) No new residential type gas appliance that is equipped with a pilot light shall be sold or installed in the State after June 30, 1980. Gas appliances sold after June 30, 1980 shall be equipped with an intermittent ignition system or other ignition devices in lieu of gas pilot lights.

(b) Beginning ninety days after the effective date of this Act, the energy resources coordinator or its successor entity shall notify, in writing, all retail sellers of gas appliances doing business in the State of the provisions of this section.

(c) The provisions of this section shall not apply to any hot water heaters with pilot lights or to any gas appliance which can be conclusively demonstrated by the equipment manufacturer, to the satisfaction of the energy resources coordinator or its successor entity, that the gas pilot device in the appliance:

- (1) Has a substantial lower life cycle cost than an electric ignition or other alternate ignition system;
- (2) Is more energy efficient than available alternatives; or
- (3) Is necessary to safeguard public health and safety.

(d) The provisions of this section shall not apply to people living in areas that are served with unreliable electric service or where it is not available.

(e) As used in this section:

- (1) "Gas appliance" includes any new residential type heater, refrigerator, stove, range, dishwasher, dryer, air conditioner, decorative fireplace, or other similar devices;
- (2) "Intermittent ignition device" means an ignition device which is activated only when the gas appliance is in operation; and
- (3) "Pilot light" means any gas operated device that remains continually operated or lighted in order to ignite a gas appliance to normal operation."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

ACT 138

H.B. NO. 2618-78

A Bill for an Act Relating to the Hawaii Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

SECTION 1. Section 359G-7, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 359G-7 Bond financing.** (a) The director of finance may issue general obligation bonds and short term project notes of the State in the aggregate amount not to exceed \$105,000,000 for the dwelling unit revolving fund under this chapter.

Pending the receipt of funds from the issuance and sale of such bonds and notes, the amount required for the purposes of this chapter shall be advanced from the general fund of the State. Upon the receipt of the bond or note funds, the general fund shall be reimbursed. The director of finance may sequester and separate the proceeds from sale of the bonds and notes into separate funds and the amounts in either fund may be used for any of the purposes set forth in this chapter.

(b) The authority, with the approval of the governor, may issue revenue bonds in an aggregate amount not to exceed \$22,500,000 for the permanent financing of rental housing projects for which the authority has received notification of selection of preliminary proposal under a federal rent subsidy program.

All revenue bonds shall be issued pursuant to part III of chapter 39 as may be amended except that:

- (1) The revenue bonds shall be issued in the name of the authority and not in the name of the State;
- (2) The revenue bonds shall bear interest at a rate or rates payable monthly, quarterly, or semi-annually;
- (3) The final maturity date of the revenue bonds may be any date not exceeding forty years from the date of the bonds; and
- (4) The revenue bonds shall be sold for not less than ninety-five per cent of the principal amount thereof.”

SECTION 2. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 359G- Revenue bond special fund.** There is created a revenue bond special fund. Notwithstanding section 359G-10, all revenues, income, receipts, and profits derived from an undertaking financed by the issuance of revenue bonds issued under section 359G-7(b) shall be paid into the revenue bond special fund and applied as provided in the proceedings authorizing the issuance of such revenue bonds.”

SECTION 3. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 359G- Additional powers.** Notwithstanding and without compliance with the provisions of sections 103-7 and 103-22 but with the approval of the governor, the authority may enter into and carry out agreements and undertake projects or participate in projects authorized by this chapter.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

ACT 139

H.B. NO. 1870-78

A Bill for an Act Relating to Alternative Mortgage Instruments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that although alternative residential mortgage financing instruments which have been developed in recent years may allow many families to qualify for homeownership who would not qualify under conventional loan standards, statutory requirements relative to reductions in loan principal and to usury do not allow such alternative instruments.

For the past forty years most home purchases have been financed by long-term, fixed rate, equal monthly payment, fully amortizing mortgage loans, commonly called direct reduction mortgages, which worked well in times of fairly stable interest rates and little or no anticipated inflation. Current housing costs coupled with higher interest rates have risen at a faster rate than personal income increases, and one method of increasing homeownership is the use of alternative instruments which lower mortgage payments in the earlier years of the mortgage contracts and increase payments as the borrower's ability to pay and the value of the mortgage security both increase.

Inflation imposes a burden on elderly homeowners whose principal asset is equity in a home either debt free or with a minimal remaining loan balance. An alternative mortgage instrument, the reverse mortgage annuity, has been developed to enable the elderly to realize portions of their equity to meet increasing costs of living while continuing to occupy their residences.

It is the purpose of this Act to permit and encourage financial institutions in the State to utilize the concepts of alternative mortgage instruments to qualify more residents for residential mortgage loans and to assist the elderly in meeting living costs while retaining their homes.

SECTION 2. Chapter 402, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 402- Alternative mortgage instruments, rules and regulations. The bank examiner shall issue rules and regulations defining and governing the utilization of alternative mortgage instruments."**

SECTION 3. Section 407-83, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 407-83 Real estate loans, ordinary.** Ordinary loans shall be made only on home property in the State, and shall be secured by mortgage on real estate

\*Edited accordingly.

and improvements of the home, which improvements may include household fixtures and appliances, the mortgage not to exceed eighty per cent of the unencumbered appraised value thereof.

Payments on real estate loans shall be applied monthly, quarterly, or semiannually as set forth in each mortgage and promissory note, first to the payment of interest on the unpaid balance of the loan, the remainder to the reduction of the loan[;], unless the manner and application of payments and the loan disbursement and treatment of loan interest are governed by an alternative mortgage instrument as approved by the bank examiner in section 402- ; provided that if the loan is in default in any manner, payments may be applied by the mortgagee in any manner approved by the bank examiner. Every loan shall be evidenced by a note or bond for the amount of the loan. The note or bond shall specify the amount, rate of interest, terms of repayment, and may contain all other terms of the loan contract.

**First lien mortgages.** Every real estate loan shall be secured by a mortgage or other instrument constituting a first lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. Any such instrument, constituting a first lien, is herein termed a "mortgage". The mortgage shall provide specifically for full protection to the association with respect to usual insurance risks, taxes, assessments, other governmental levies, maintenance, and repairs. It may provide for an assignment of rents, which assignment shall be valid. It may also provide that household fixtures and appliances shall be a portion of the security for the loan. Except as otherwise provided in chapter 490, Article 9, Secured Transactions, of the Uniform Commercial Code, every such mortgage or other instrument shall create, and preserve to the association a first lien, which shall equally secure the original loan and each and every subsequent advance and loan in any amount and for any purpose by the association to the borrower. No subsequent loan to the borrower by any other person shall establish an intervening lien, which shall disturb the first lien of such association as security for every advance and loan made to the borrower. All such mortgages shall be recorded in accordance with the law of this State.

**Protective payments, charges; records; reserves.** An association may pay taxes, assessments, insurance premiums, and other similar charges for the protection of its real estate loans. All the payments shall be added to the unpaid balance of the loan and shall be equally secured by the first lien on the property. An association may require the borrower to pay monthly in advance the equivalent of one-twelfth of the estimated annual taxes, assessments, insurance premiums, and other charges upon the real estate securing the loan, or any of such charges, so as to enable the association to pay such charges as they become due from the funds so received. The amount of the monthly charges may be increased or decreased so as to provide reasonably for the payment of the estimated annual taxes, assessments, insurance premiums, and other charges. Every association shall keep a record of the status of taxes, assessments, insurance premiums, and other charges on all real estate securing its loans and on all real and other property owned by it. All real estate loans may be prepaid, in part or in full, at any time.

and the association shall not charge for the privilege of anticipatory payment an amount greater than one per cent of the amount of the anticipatory payment.

An association, by agreement with the debtor, may modify the terms of any real estate loan so that such loan shall be an amortized loan, and incident thereto may credit on the debt the book value of mortgage loan shares or accounts pledged as security for such real estate loan.

If the value of the property securing the loan depreciates or otherwise is found to be below the margin of excess over face value of the loan required by this section, the association may be permitted to hold the same upon such conditions as the bank examiner in writing may prescribe provided a reserve, in addition to the reserve otherwise required by law, is set up by the association sufficient to cover the amount of the deficiency."

SECTION 4. Section 478-10, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 478-10 Exemptions of certain mortgage loans.** The provisions of this chapter shall not apply to [any]:

- (1) Any mortgage loan wholly or partially secured by a guarantee or insurance or a commitment to insure issued under the provisions of the National Housing Act, Chapter 13 of Title 12 of the United States Code, the Veterans Benefit Act, subchapters I and II of Chapter 37 of Title 38 of the United States Code, and subchapter III of Chapter 8A of Title 42 of the United States Code [.] or
- (2) Any mortgage loan wholly or partially secured by an alternative mortgage instrument is approved by the bank examiner in section 402-

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

ACT 140

H.B. NO. 1987-78

A Bill for an Act Relating to Residential Leasehold.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 516-1, Hawaii Revised Statutes, is amended by amending the definition of "lease" to read as follows:

- "(5) "Lease" means a conveyance of land or an interest in land, by a fee simple owner as lessor, or by a lessee or sublessee as sublessor, to any person, in consideration of a return of rent or other recompense, for a term, measured from the initial date of the conveyance, (A) [exceeding thirty-five years] thirty-five years or more (including any periods for which the lease may be extended or renewed at the option of the lessee)

as to existing leases and in force on June 24, 1967, or (B) [exceeding twenty years] twenty years or more (including any periods for which the lease may be extended or renewed at the option of the lessee) as to leases executed after June 24, 1967.”

SECTION 2. Section 516-33, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 516-33 Qualification for purchase.** Except as otherwise provided under section 516-28, no sale of any residential house lot within a development tract shall be made to any person unless he meets the following requirements:

- (1) Is at least eighteen years of age;
- (2) Is a bona fide resident of the State or [and] has a bonafide intent to reside in the development tract if successful in purchasing the lot;
- (3) Is a bona fide owner of a residential structure situated on the leased lot applied for;
- (4) Has a letter of credit, certificate of deposit, proof of funds, or approved application from any lending institution demonstrating that he will be able to promptly pay the authority for the leased fee interest in the lot;
- (5) Submits an application in good faith [accompanied by a deposit to be established by the authority, not to exceed \$500, as earnest money to be applied to the purchase price;] in such form as is acceptable to the authority;
- (6) Executes a contract for purchase of the fee interest in such form as is acceptable to the authority; and
- (7) Does not own in fee simple lands suitable for residential purposes within the county and in or reasonably near the place of business of such person or has or have pending before the Hawaii housing authority an unrefused application to lease or purchase a lot in a development tract. A person is deemed to own lands herein if he, his spouse, or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) own lands.

In the event of a wilful breach of contract of a lessee to purchase the leased fee interest, the authority may sell or assign its interest without respect to the requirements of this section.

The authority may require additional testimony or evidence under oath in connection with any application. The determination by the authority of any applicant's eligibility under this part shall be conclusive as to all persons thereafter dealing with the property; provided that the making of any false statement knowingly by applicants or other person in connection with any application shall constitute perjury and be punishable as such. The authority shall adopt rules [and regulations] pursuant to chapter 91 to effectuate the purposes of this section.”

SECTION 3. Chapter 516, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 516- Deposits by lessees.** (a) The authority may require the submission of a deposit by any lessee applying to the authority for the purchase of a

residential lot under this chapter. The amount of the deposit, not to exceed \$500 shall be established by rule.

(b) No deposit shall be required to be made more than 180 days prior to the date estimated by the authority for condemnation of the development tract.

The deposit may be applied by the authority, after the acquisition of all or part of the development tract or the institution of eminent domain proceedings, to payment of appraisal, survey, and attorney fees the authority has incurred as a result of the designation, with the remainder of the deposit to be applied toward the purchase of the owner's fee interest."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

ACT 141

S.B. NO. 71

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Purpose. The purpose of this Act is to recodify Hawaii's housing laws with substantive changes as necessary.

Hawaii's housing laws have generally followed enactment of federal statutes, a pattern which has created a collection of federal laws recently described by a federal government study as being a "hodgepodge of accumulated authorizations"...which contain "internal inconsistencies, numerous duplications, cross purposes, and overlaps as well as outright conflicts and gimmickry." Although Hawaii's laws are not as ill-constructed as the federal laws, many of the present statutory provisions are unnecessary, obsolete, or in need of clarification.

SECTION 2. Chapter 356, Hawaii Revised Statutes, is amended as follows:

1. Section 356-1 is amended to read:

**"Sec. 356-1 Finding and declaration of necessity.** It is declared: that unsanitary or unsafe dwelling accommodations exist in various areas of the State and that many persons are forced to reside in these dwelling accommodations; that there is a lack of safe or sanitary dwelling accommodations available to all the inhabitants of the State and that consequently many persons are forced to occupy overcrowded and congested dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the inhabitants of the State and impair economic values; that these conditions cannot be remedied by the ordinary operations of private enterprises; that the clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations are public

uses and purposes for which public money may be spent and private property acquired; that it is in the public interest that work on such projects be instituted as soon as possible to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for this chapter is declared as a matter of legislative determination.”

2. Section 356-2 is amended to read as follows:

“**Sec. 356-2 Definitions.** The following terms, wherever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

“Authority” means the Hawaii housing authority created by this chapter.

“Government” includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

“Federal government” includes the United States and any agency, instrumentality, corporate or otherwise, of the United States.”

“Housing project” or “project” includes all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking:

- (1) To demolish, clear, remove, alter, or repair unsanitary or unsafe housing, or
- (2) To provide safe and sanitary dwelling accommodations, or
- (3) To do both.

The term “housing project” or “project” may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith; and the term includes all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

“Community facilities” includes real and personal property, and buildings, equipment, lands, and grounds for recreational or social assemblies, for educational, health, or welfare purposes and necessary or convenient utilities, when designed primarily for the benefit and use of the authority or the occupants of the dwelling accommodations.

“Bonds” means any bonds, interim certificates, notes debentures, or other evidences of indebtedness of the authority issued pursuant to this chapter.”

“Obligee of the authority” or “obligee” includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project, or any assignee of the lessor’s interest or any part thereof, and the United States, when it is a party to any contract with the authority.

3. Section 356-3 is repealed.

[4.]†

†“4” has been supplied by revisor. It is apparent that some material is missing at this point. In S.B. No. 71, S.D. 1, the following reference to §356-5 appeared: “Section 356-5 is amended to read as follows:”.



**"Sec. 356-5 Hawaii housing authority; establishment, commission, staff.** (a) There is established the Hawaii housing authority to be placed within the department of social services and housing for administrative purposes. The authority shall be a public body and a body corporate and politic with perpetual existence.

(b) The authority shall consist of eight members of whom six shall be public members appointed by the governor as provided in section 26-34. Not more than three of the public members shall be members of the same political party. Two of the public members shall be appointed at large; the remaining public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. The director of social services and the special assistant for housing shall be ex officio voting members.

(c) The authority shall select from its members a chairman and vice-chairman. The director of social services shall not be ex officio chairman of the authority.

(d) Four members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The members shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the performance of their duties.

(e) The authority shall employ, not subject to chapters 76 and 77 and section 26-35(4), an executive director. The authority may employ, subject to chapters 76 and 77, technical experts and officers, agents, and employees, permanent and temporary, as required. When, in the determination of the authority, services to be performed are unique and essential to the execution of the functions of the authority, it may hire persons on a contractual basis not subject to chapters 76, 77, and 78; provided that no contract shall be for a period longer than two years, and no person hired under contract shall be employed beyond a maximum of six years. The authority may call upon the attorney general for such legal services as it may require or it may employ its own counsel and legal staff. The authority may delegate to one or more of its agents or employees such powers or duties as it deems proper."

5. Section 356-6 is repealed.

6. Section 356-7 is repealed.

7. Section 356-8 is repealed.

8. Section 356-9 is repealed.

9. Section 356-10 is amended to read:

**"Sec. 356-10 General powers.** (a) The authority may: sue and be sued; have a seal and alter the same at pleasure; make and execute contracts and other instruments necessary or convenient to the exercise of its powers; make, amend, and repeal bylaws and rules in accordance with chapter 91 for its organization, internal management, and to carry into effect its purposes, powers, and programs.

(b) In addition to other powers conferred upon it, the authority may do all things necessary and convenient to carry out the powers expressly given in this chapter."

10. Section 356-11 is amended to read:

**"Sec. 356-11 [Power to lease, sell, purchase, etc.] Acquisition, use, disposition of property.** (a) The authority may acquire any real or personal property or interest therein by purchase, exchange, gift, grant, lease, or other means from any person or government for the purpose of providing housing. Exchange of real property shall be in accordance with section 171-50.

(b) The authority may own or hold real property. All real property owned or held by the authority shall be exempt from mechanics or materialmen's liens and also from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the authority be a charge or lien upon its real property; provided that this subsection shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the authority on its rents, fees, or revenues. The authority and its property shall be exempt from all taxes and assessments.

(c) The [Hawaii housing] authority [shall also have power to] may lease or rent [any of the dwellings or other], accommodations or any of the, lands, buildings, structures, or facilities embraced in]† all or a portion of any housing project and [to] establish and revise the rents or charges therefor [; to]. The authority may sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein to any person [, firm, corporation,] or government [; to enter upon any building or property in order to conduct investigations or to make surveys or soundings; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise, any property, real or personal or any interest therein from any person, firm, corporation, or government; to own, hold, clear, and improve property; to].

(d) The authority may insure or provide for the insurance of [the] its property or operations [of the authority] against such risks as [the authority may deem] it deems advisable[; to procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any housing project]."

11. Section 356-12 is amended to read:

**"Sec. 356-12 Cooperative agreements with other governmental agencies.**

(a) The authority may:

- (1) Obtain the aid and cooperation of governments in the planning, construction, and operation of housing projects and enter into such agreements and arrangements as it deems advisable to obtain such aid and cooperation;
- (2) Arrange or enter into agreements with any government for the acquisition by the government of property, options, or property rights or for the furnishing, installing, opening, or closing of streets, roads, alleys, sidewalks, or other places, or for the furnishing of property, services, parks, sewage, water, and other facilities in connection with housing

†So in original, opening bracket is missing.

projects, or for the changing of the map of a political subdivision or the planning, replanning, zoning, or rezoning of any part of a political subdivision;

- (3) Procure insurance or guarantees from any government for the payment of any debts or parts thereof incurred by the authority, including the power to pay premiums on any such insurance; and
- (4) Agree to make payments to the state or county government, if the government is authorized to accept, as the authority deems consistent with the maintenance of the character of housing projects or the purposes of this chapter.
- (b) For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects located within their respective territorial boundaries, the state or county government, upon such terms, with or without consideration, as it determines, may:
  - (1) Dedicate, grant, sell, convey, or lease any of its property, or grant easements, licenses, or any other rights or privileges therein to the authority or to the federal government;
  - (2) To the extent that it is within the scope of each of their respective functions:
    - (A) Cause the services customarily provided by each of them to be rendered for the benefit of housing projects and the occupants thereof;
    - (B) Provide and maintain parks and sewage, water, lights, and other facilities adjacent to or in connection with housing projects;
    - (C) Open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other such facilities; and
    - (D) Change the map of a political subdivision or plan, replan, zone, or rezone any part of a political subdivision;
  - (3) Enter into agreements with the authority with respect to the exercise of their powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit dwellings;
  - (4) Employ, notwithstanding any other law as to what constitute legal investments, any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the authority, in the purchase of the bonds or other obligations of the authority to the extent provided by section 356-33; and exercise all the rights of any holder of such bonds or other obligations;
  - (5) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, and construction of such housing projects; and
  - (6) Enter into contracts with the authority or the federal government for any period agreeing to exercise any of the powers conferred hereby or to take any other action in aid of such housing projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any such public improvements located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects, the department of land and natural resources, the Hawaiian homes commission, and any other agency of the State having power to manage or dispose of its public lands, may, with the approval of the governor and with or without consideration, grant, sell, convey, or lease for any period, any parts of such public lands, without limit as to area, to the authority or to the federal government.

Any law or statute to the contrary notwithstanding, any gift, grant, sale, conveyance, lease, or agreement provided for in this section may be made by the state or county government without appraisal, public notice, advertisement, or public bidding.

If at any time title to, or possession of, any housing project is held by any government authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, any agreement made under this chapter relating to such project shall inure to the benefit of and may be enforced by that government.

Insofar as this subsection is inconsistent with the provisions of any other law, this subsection shall be controlling.

(c) The government of any county in which a housing project is located or is about to be located may make donations or advances to the authority in such sums as the county in its discretion may determine. The advances or donations shall be made for the purpose of aiding or cooperating in the construction and operation of the housing project. The authority, when it has money available therefor, shall reimburse the county for all advances made by way of a loan to it."

12. Section 356-13 is amended to read:

**"Sec. 356-13 Investigatory powers.** (a) The authority may:

- (1) Investigate living, dwelling, and housing conditions and the means and methods of improving such conditions;
- (2) Enter upon any building or property in order to conduct investigations or to make surveys or soundings;
- (3) Conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information;
- (4) Issue subpoenas requiring the attendance of witnesses or the production of books and papers, and order the examination of witnesses who are unable to attend before the authority, are excused from attendance, or by leave of court as provided by chapter 624, are out of the State; and
- (5) Make available to any government agency charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its territorial limits, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety, or welfare.

(b) Investigations or examinations may be conducted by the authority or by a committee appointed by it, consisting of one or more members, or by counsel, or by an officer or employee specially authorized by the authority to

conduct it. Any person designated by the authority to conduct an investigation or examination shall have power to administer oaths, take affidavits, and issue subpoenas or orders for the taking of depositions."

13. Section 356-14 is amended to read:

**"Sec. 356-14 Agents, including corporations.** The authority may exercise any or all of the powers conferred upon it, either generally or with respect to any specific housing project through an agent which it may designate, including any corporation which is formed under the laws of this State, and for such purposes the authority may cause one or more corporations to be formed under the laws of this State or may acquire the capital stock of any corporation. Any corporate agent, all of the stock of which shall be owned by the authority or its nominee, may to the extent permitted by law exercise any of the powers conferred upon the authority herein."

14. Section 356-16 is repealed.

15. Section 356-18 is amended to read:

**"Sec. 356-18 Eminent domain.** (a) The authority may acquire any real property, including fixtures and improvements, or interest therein, by the exercise of the power of eminent domain which it deems necessary by the adoption of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority shall exercise the power of eminent domain granted by this section in the same manner and procedure as is provided by chapter 101, and otherwise in accordance with all applicable provisions of the general laws of the State.

The authority may acquire by the exercise of the power of eminent domain property already devoted to a public use, provided that no property belonging to any government may be acquired without its consent, and that no property belonging to a public utility corporation may be acquired without the approval of the public utilities commission.

(b) The federal government may acquire by eminent domain any real property which it deems necessary or convenient for a housing project to be constructed, operated, or aided by the federal government. The power of eminent domain may be exercised in conformity with chapter 101. For the purposes of this subsection, federal government includes any corporation borrowing money or receiving other financial assistance from the federal government for the purposes of financing the construction or operation of any housing project, the operation of which is subject to public supervision or regulation. For the purposes of this subsection, a housing project shall be deemed to be subject to public supervision or regulation if the rents to be charged by it are subject to the supervision, regulation, or approval of any state or county government agency, whether such right to supervise, regulate, or approve is by virtue of law, statute, contract, or otherwise."

16. Section 356-19 is repealed.

17. Section 356-20 is amended to read:

**"Sec. 356-20 Zoning and building laws to be observed.** (a) All housing projects of the authority shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the

housing project is situated; provided that housing projects developed pursuant to section 359G-4(d) and section 359G-4.1 shall be exempt from this section.

(b) Notwithstanding any statute or ordinance to the contrary, multi-story housing projects for the elderly shall be developed only on land which is either zoned or designated for apartment or business use on the general plans or detailed land use plan of the respective county wherein the land to be utilized for such projects are located and shall be exempt from all county zoning ordinances and zoning codes and restrictions therein, including, but not limited to, building height restrictions, floor area ration formulas, open space, living space, loading space, recreational space, and land use intensity requirements. The director shall before approving such a project hold a public hearing pursuant to chapter 91."

18. Section 356-21 is amended to read:

**"Sec. 356-21 Contracts with federal government.** (a) The authority may:

- (1) Borrow money or accept grants from the federal government for or in aid of any housing project which the authority is authorized to undertake;
- (2) Take over any land acquired by the federal government for the construction or operation of a housing project;
- (3) Take over, lease, or manage any housing project constructed or owned by the federal government, and to these ends, enter into such contracts, mortgages, leases, or other agreements as the federal government may require including agreements that the federal government shall have the right to supervise and approve the construction, maintenance, and operation of the housing project;
- (4) Procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any housing project;
- (5) Agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and include in any construction contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor;
- (6) Comply with any conditions required by the federal government in any contract for financial assistance; and

(b) In any contract for annual contributions with the federal government, the authority may obligate itself to convey to the federal government possession of or title to the project to which the contract relates, if a substantial default, as defined by contract, occurs. Notwithstanding any other law to the contrary, this obligation shall be specifically enforceable and shall not constitute a mortgage.

The contract may provide further that if such conveyance occurs, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project in accordance with the terms of the contract; provided that the contract shall require that as soon as practicable after the federal government

is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the project as then constituted.

(c) It is the purpose and intent of this chapter to authorize the authority to do any and all things necessary to secure the financial aid and the cooperation of the federal government in the undertaking, construction, maintenance, and operation of any housing project which the authority is empowered to undertake."

19. Section 356-22 is amended to read:

**"Sec. 356-22 Public works contract.** The authority may make, execute, and carry out contracts for, or in connection with, any housing project in the manner provided in sections 103-26 to 103-38 and 103-53; and, with regard to such contracts, the term "officers", as used in sections 103-26 to 103-38, shall mean the authority or such officer authorized by the authority to act as its contracting officer. Unless made and executed in the name of the State, each contract made and executed as authorized in this section shall state therein that it is so made and executed."

20. Section 356-24 is repealed.

21. Section 356-25 is repealed.

22. Section 356-27 is amended to read:

**"Sec. 356-27 Bonds.** (a) The authority may with the approval of the governor issue bonds (including refunding bonds for the purpose of paying or retiring bonds previously issued by the authority) from time to time in such amounts as it may deem advisable for any of its corporate purposes. The authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

- (1) Exclusively from the income and revenues of the housing project financed with the proceeds of the bonds, or with the proceeds together with a grant from the federal government in aid of the project;
- (2) Exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of the bonds; or
- (3) From its revenues generally.

(b) Any of the bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project or other property of the authority.

(c) Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(d) The authority may purchase its bonds at a price not more than the principal amount thereof and accrued interest, and all bonds so purchased shall be canceled."

23. Section 356-28 is amended to read:

**"Sec. 356-28 State and counties not liable on bonds; bonds tax exempt.** (a) The bonds and other obligations of the authority shall not be a debt of the State or of any county; neither the State nor any county shall be liable thereon. The

bonds shall not be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds may be issued under this chapter notwithstanding any debt or other limitation prescribed by any statute.

(b) Bonds, notes, debentures, and other evidences of indebtedness of the authority are declared to be issued for a public purpose and to be public instrumentalities; and, together with interest thereon, shall be exempt from taxes.

(c) Bonds and obligations of the authority shall state on their face that they are obligations of the authority."

24. Section 356-31 is redesignated and amended to read:

**"Sec. 356-24 Remedies of an obligee: mandamus; injunction; possessory action; receiver; accounting; etc.** An obligee of the authority shall have the right in addition to all other rights which may be conferred on the obligee subject only to any contractual restrictions binding upon the obligee, and subject to the prior and superior rights of others:

- (1) By mandamus, suit, action, or proceeding in law or equity to compel the authority, and the members, officers, agents, or employees thereof to perform each and every item, provision, and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter;
- (2) By suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of the obligee of the authority;
- (3) By suit, action, or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the authority;
- (4) By suit, action, or proceeding in any court of competent jurisdiction, upon the happening of an event of default (as defined in a contract of the authority), to obtain the appointment of a receiver of any housing project of the authority or any part or parts thereof, and if the receiver is appointed, he may enter and take possession of the housing project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep the moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct;
- (5) By suit, action, or proceeding in any court of competent jurisdiction to require the authority and the members thereof to account as if it and they were the trustees of an express trust."

25. Section 356-32 is redesignated and amended to read:

**"Sec. 356-25 Subordination of mortgage to agreement with government.** The authority may agree in any mortgage made by it that the mortgage shall be



subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvement thereon. In such event, any purchaser or purchasers at a sale of the property of the authority pursuant to a foreclosure of the mortgage or any other remedy in connection therewith shall obtain title subject to the contract."

26. Section 356-36 is repealed.

27. Section 356-37 is repealed.

28. Section 356-38 is repealed.

29. Section 356-15 is redesignated and amended to read:

**"Sec. 356-31 Investment of reserves, etc.** The authority may invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control. No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to the authority unless the legislature shall specifically so state."

30. Section 356-17 is redesignated and amended to read:

**"Sec. 356-32 Security for funds deposited by authority.** The authority may by resolution provide that all moneys deposited by it shall be secured:

- (1) By any securities by which funds deposited by the director of finance may be legally secured as provided in section 38-2, or
- (2) By an undertaking with such sureties as are approved by the authority faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for such deposits."

31. Section 359G-14.1 is redesignated and amended to read:

**"Sec. 356-6 Housing information system.** (a) The authority shall, with the assistance of other agencies of the State and counties with related responsibilities, develop and maintain a housing information system. The system shall make available current information as to housing conditions, needs, supply, characteristics, developments, trends, federal housing programs, and housing laws, ordinances, rules, and regulations.

(b) In establishing and maintaining the information system, the authority shall assemble necessary and appropriate information, including but not limited to statistics and research developed by agencies of the United States, the State, the counties, private research organizations, nonprofit community groups, trade associations, including those of the construction and real estate industries, departments, and individuals at the University of Hawaii.

(c) The information system may be used by housing researchers, planners, administrators, and developers, and shall be coordinated with other housing research efforts. The authority shall maintain a current supply of information, including means to gather new information through surveys, contracted research and investigations, and shall by rule under chapter 91 provide for access to the information system at reasonable rates on an equitable basis.

SECTION 3. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read:

**“Sec. 356-7 Housing research.** (a) The authority may study the plans of any government in relation to the problem of clearing, replanning, or reconstruction of an area in which unsafe, or unsanitary dwelling or housing conditions exist.

(b) The authority may purchase materials for the development of land and the construction of dwelling units in the manner it shall conclude to be most conducive to lower costs including purchase from other states or from foreign countries for drop shipment in the State or on cost-plus contracts for such materials with persons or firms doing business in the State, or otherwise. The authority shall not expend more than \$100,000 a year for the purpose of this subsection.

(c) The authority may conduct, or cause to be conducted, research on housing needs, materials, design, or technology, and for applying the findings of such investigation to housing projects, including the following:

- (1) Sociocultural investigation of housing and community utilization, preferences, or needs of residents within the housing need classification of the housing functional plan;
- (2) Development of technology for the application of innovative building systems or materials, to provide energy or resource conservation or cost savings in the construction or operation of a housing project;
- (3) Investigation of the applicability of locally produced building materials and systems to dwelling unit construction;
- (4) Investigation of new forms of project construction, maintenance, operation, financing, or ownership, involving tenants, homeowners, financing agencies, and others; or
- (5) Other necessary or appropriate research which may lower the long-term costs of housing, conserve resources, or create communities best suited to the needs of residents.

(d) In the development and construction of a housing project, the authority may provide for an on-the-job training program for the purpose of developing a larger qualified work force in the State. For this purpose, the authority shall not expend more than \$100,000 a year.”

SECTION 4. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to read:

**“Sec. 356-8 Housing counseling.** The authority shall be responsible for providing:

- (1) Counseling to prospective homeowners seeking to purchase a home, and to homeowners seeking to rehabilitate or renovate existing homes;
- (2) Listing and referral services to tenants seeking to rent homes;
- (3) Assistance to any person or government agency regarding the nature and availability of federal assistance for housing development and community development or redevelopment;
- (4) Counseling and guidance services to aid any person or government agency in securing the financial aid or cooperation of the federal government in undertaking, constructing, maintaining, operating, or financing of any housing designed for the elderly, persons displaced by governmental action, university and college students and faculty, and

- any other persons; and
- (5) Assistance to a county agency upon request from the agency in the development of programs to correct or eliminate blight and deterioration, and to effect community development.”

SECTION 5. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to read:

**“Sec. 356-15 Development of property.** (a) The authority, in its own behalf or on behalf of any government, may:

- (1) Clear, improve, and rehabilitate property; and
- (2) Plan, develop, construct, and finance housing.

(b) The authority may develop public land in an agricultural district subject to the prior approval of the land use commission, and public land in a conservation district subject to the prior approval of the board of land and natural resources. The authority shall not develop federal lands, or state monuments, historical sites, or parks. When the authority proposes to develop public land, it shall file with the department of land and natural resources a petition setting forth such purpose. The petition shall be conclusive proof that the intended use is a superior public use to that which the land has been appropriated.

(c) The authority shall not develop any public land where the development may endanger the receipt of any federal grant, impair the eligibility of any public body for a federal grant, prevent the participation of the federal government in any government program, or impair any covenant between the government and the holder of any bond issued by the government.

(d) The authority may contract or sponsor with any county, housing authority, or person, subject to the availability of federal funds, an experimental or demonstration project for permanently fixed or mobile housing designed to meet the needs of the elderly, persons displaced by governmental action, low and moderate income persons or university and college students and faculty.”

SECTION 6. Chapters 357 and 358, Hawaii Revised Statutes, are repealed.

SECTION 7. Section 359G-3, Hawaii Revised Statutes, is repealed.

SECTION 8. Every appointment of an acting commissioner or acting member of the authority made prior to May 17, 1949, by the governor together with all proceedings and acts and things undertaken, performed, or done by every such acting commissioner or acting member, under or by color of any such appointment, are hereby validated, ratified, and confirmed, notwithstanding any lack of statutory authority for or defects in the appointment of such acting commissioner or acting member.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 10. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

\*Edited accordingly except as to section 2(10), which is set out in full.

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359-56, Hawaii Revised Statutes, is amended to read:

**"Sec. 359-56 State assistance to [governmental] public agencies and [persons.] eligible developers and non-profit corporations.** (a) The authority may provide assistance and aid to public agencies, eligible developers and non-profit corporations in developing and constructing new housing projects and rehabilitating old housing for elderly persons of low income by making available interim construction loans from the proceeds of tax exempt general obligation bonds; provided [,] that the development and construction of new housing projects and rehabilitation of old housing for elderly persons of low income qualify for the housing assistance from the federal government. Federal housing assistance means financial or other aid granted to the State to help defray construction and rental costs associated with such housing project or projects.

(b) State financial assistance granted to public agencies and eligible developers shall be in an amount not in excess of the development cost of the project, [including] excluding administrative or other cost or expense to be incurred by the authority. In anticipation of final payment of such financial assistance, the authority in accordance with such assistance, may make temporary advances to the public agencies and eligible developers for preliminary planning expense or other development cost of such project or projects.

(c) The authority may charge service fees and premiums upon the issuance of any interim construction loan under this section. The interest paid on such loans [,] and service fees and premiums shall be paid into the elderly housing fund created by section 359-65.

(d) The rates of interest on loans secured and made under this part shall be established by the authority, with the approval of the director of finance, after each sale of general obligation bonds of the State, the proceeds of which are to be used for the purposes of this part. In the event that no such sale intervenes in a twelve-month period after the last rate fixing, the authority may review the then existing rates on loans made under this part and retain the existing rate or, with the approval of the director of finance, establish different rates. The director of finance shall approve such rates so as to produce up to but not in excess of the maximum yield to the State permitted under [such] section 103(d) (2) of the United States Internal Revenue Code of 1954, on the assumption that the general obligation bonds, the proceeds of which are to be used for the purposes of this part, would otherwise be "arbitrage bonds" under that section were such maximum yield to be exceeded. The establishment of the rates of interest shall be exempt from chapter 91.

(e) Loans made under this part shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest only in the land upon which the dwelling units are constructed. The authority may require such other security interests and instruments as it deems necessary to secure the indebtedness and

such other conditions consistent with the production and rental of dwelling units at the lowest possible prices. The authority may also set the conditions of the loan in a building and loan agreement between the borrower and the authority in order to secure the loan and the performance of the borrower to complete the project.

(f) The authority may require performance bonds to be posted to the benefit of the State with surety satisfactory to it guaranteeing completion of housing projects and performance by qualified developers or the State may act as a self-insurer requiring such security, if any, from qualified developers as the authority shall deem necessary.

(g) The authority may obtain from any federal agency any insurance or guarantee for the payment of interest or principal, or both, on any obligations issued pursuant to the provision of this section."

SECTION 2. Section 359-57, Hawaii Revised Statutes, is amended to read:

**"Sec. 359-57 Cooperative agreements with political subdivisions and other governmental agencies.** (a) The authority shall have the power to provide assistance to political subdivisions and other governmental agencies in the planning, construction, and operation of housing projects and to enter into such agreements and arrangements as it deems advisable [to obtain] in providing such aid and cooperation. The authority may receive assistance from political subdivisions and other governmental agencies in the planning, construction, and operation of housing projects and to enter into such agreements and arrangements as it deems advisable to obtain such aid and cooperation.

(b) When a political subdivision deems it necessary that the authority develop and administer an elderly housing project, the legislative body of the political subdivision shall by resolution request the authority to develop a housing project or projects within the political subdivision and shall approve the site or sites thereof. During the time the authority maintains and administers the housing project pursuant to request of a political subdivision:

- (1) The political subdivision shall not levy or impose any special or improvement district assessments upon the housing project or upon the authority;
- (2) [That the] The political subdivision shall furnish, or cause to be furnished, to the authority, without cost or charge to the authority or to the tenants of the housing project, public services and facilities which are, upon the enactment of this part, being furnished [without cost or charge] to any other dwellings or any other inhabitants of the political subdivision regardless of cost or charge, including but not limited to: fire, police, and health protection and services; nursing, medical, or hospital care for the sick, aged, poor, or indigent; maintenance and repair of highways, streets, roads, alleys, sidewalks, and sewer and water systems within or adjacent to the project; garbage and trash collection and disposal; storm drainage; control of and protection against flood or flood waters; street lighting on streets or roads within the project and on the boundaries thereof; and adequate sewer services

for the projects;

- (3) [That the] The political subdivision shall, without cost or charge to the authority, vacate such streets, roads and alleys within the area of the housing project as the authority may find necessary in the development or administration thereof and shall convey without charge to the authority such interest that the political subdivision may have in the vacated areas;
- (4) The political subdivision insofar as it may lawfully do so, shall make changes in the zoning of the site of the housing project as are reasonable and necessary for the development and protection thereof;
- (5) The political subdivision shall, without cost or charge to the authority or to the tenants of the housing project, provide, improve, pave, construct, and maintain all interior streets, roads, alleys, sidewalks, and storm and sanitary sewer mains and laterals within the area of the project (and shall accept necessary dedications of land therefor), and shall, in like manner, provide, improve, pave, construct, and maintain all streets, roads, and alleys bounding the project or necessary to provide adequate access thereto, and also all water mains and storm and sanitary sewer mains leading to the project or serving the bounding streets thereof;
- (6) The political subdivision shall, when requested by the authority, without cost or charge to the authority, remove from the project any sick or disabled elderly person, who is a tenant therein, and shall thereupon furnish the elderly person, without cost or charge to the authority, suitable medical, nursing, and hospital treatment and care; and
- (7) The political subdivision shall observe and perform such other terms and conditions as the authority may deem necessary or desirable in connection with the development or administration of the project."

SECTION 3. Section 359-62, Hawaii Revised Statutes, is amended to read:

**"Sec. 359-62 Tenant selection; dwelling accommodations; rentals.** In the administration of housing projects the Hawaii housing authority shall at all times observe the following duties in regard to tenant selections, dwelling accommodations, and rentals:

- (1) Except as hereinafter provided, it shall accept only elderly persons as tenants in the housing projects.
- (2) It may accept as tenants [in a single dwelling accommodation] in any such housing project a husband and wife, or two or more members of the same family; provided, each such person is an elderly person. It may also accept as a tenant in any such dwelling accommodation or in any such project, in case of the illness or other disability of an elderly person who is a tenant in the dwelling accommodation or in the project, such person as shall be designated by the elderly person as his or her companion and who is approved by the authority, although the person is not an elderly person; provided, any such person shall cease to be a tenant

therein upon the recovery of, or removal from [,] the project of, the elderly person.

- (3) It may rent or lease to an elderly person a dwelling accommodation consisting of such number of rooms as it deems necessary or advisable to provide safe and sanitary accommodations to the proposed occupant or occupants thereof without overcrowding.
- (4) Notwithstanding that the elderly person has no written rental agreement or that it has expired, so long as the elderly person continues to tender the usual rent to the authority or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elderly person, nor shall the authority otherwise cause the elderly person to quit the dwelling unit involuntarily, [nor] demand an increase in rent from the elderly person [; nor] , or decrease the services to which the elderly person has been entitled during hospitalization of the elderly person due to illness or other disability."

SECTION 4. Section 359G-1.1, Hawaii Revised Statutes, is amended to read:

**"Sec. 359G-1.1 Definitions.** Unless otherwise clear from the context, as used in this chapter:

- (1) "Eligible bidder" means a person, partnership, firm, or corporation determined by the authority:
  - (A) To be qualified by experience and financial responsibility to construct housing of the type proposed to be contracted;
  - (B) To have submitted the lowest acceptable bid; and
  - (C) To form a corporation to comply with chapter 416 to receive a lease of lands.
- (2) "Eligible developer" means any person, partnership, cooperative, firm, non-profit or profit corporation or public agency determined by the authority:
  - (A) To be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project;
  - (B) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules;
  - (C) To be fully capable, on the basis of experience and reputation to complete all sales of the project in a nondiscriminatory fashion and without encountering complaints under chapters 342, 378, 396, 515, or suits under any applicable state or federal civil or human rights statute, if applicable; and
  - (D) To meet all other requisites the authority deems to be just and reasonable, and all requirements stipulated in this chapter.
- (3) "Land" or "property" includes vacant land or land with site improvements whether partially or entirely finished in accordance with

- governmental subdivision standards, or with complete dwellings.
- (4) "Mortgage holder" includes the United States Department of Housing and Urban Development, Federal Housing Administration, United States Department of Agriculture, Farmers Home Administration, and other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.
  - (5) "Mortgage lender" means any bank or trust company, savings bank, national banking association, savings and loan association maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.
  - (6) "Purchaser's equity" means the difference between the original cost of the dwelling unit to the purchaser, and the principal amount of any mortgages, liens, or notes outstanding.
  - (7) "Qualified resident" means a person who:
    - (A) Is a citizen of the United States or a [declarant] resident alien;
    - (B) Is at least eighteen years of age;
    - (C) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this chapter; [and]
    - (D) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase [.] and
    - (E) [Any person whom] is not found by the authority [finds] to be within one of the following classes [., shall not be eligible to become a purchaser of a dwelling unit, to wit]:
      - [(A)] (i) A person who himself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold any lands suitable for dwelling purposes; [and] or
      - [B] (ii) A person who himself or whose husband or wife (when husband and wife are living together) has pending [an] another unrefused application to purchase a dwelling unit under this chapter from the authority."

SECTION 5. Section 359G-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority [shall] may develop fee simple or leasehold property, construct dwelling units thereon, including condominiums and planned units, and sell, lease, or rent or cause to be leased or rented, [the land and the completed units] at the lowest possible price to qualified residents of the State, in partnership with a qualified partner or in its own behalf [., either:

- (1) Fully completed dwelling units with the appropriate interest in the land on which the dwelling unit is located; or



- (2) Units which are substantially complete and habitable with the appropriate interest in the land on which the dwelling unit is located; or
- (3) The land with site improvements (other than the dwelling unit) either partially or fully developed."

SECTION 6. Section 359G-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

"(e) The authority may acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this chapter. Whenever land with a completed or substantially complete and habitable dwelling or dwellings thereon is acquired by exchange or negotiation, the exchange value or purchase price for such dwelling, including land, shall not exceed its appraised value. Land or property acquired in anticipation of future use may be leased for the interim period by the authority for such term and rent as it deems appropriate."

SECTION 7. Section 359G-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) The authority shall have sole control of the partnership, shall keep all books of the partnership, and shall ascertain all costs of the partnership, including the cost of services performed by any other partners and it shall audit the same. The other partners shall perform services for the partnership under the direction of the authority and shall be reimbursed for all costs relating to the project as certified by the authority including administrative and overhead costs. Additionally the other partners shall, [upon occupancy of the dwelling unit by] upon transfer of title by the authority to the purchaser, be entitled to a guaranteed gross share of not more than fifteen per cent of the actual cost to the developer, of the project pro rated to such dwelling unit less any amount subsidized by the State. Subsidies shall include tax relief granted under section 359G-15, unrecovered development and land costs and any other subsidized items as defined in rules to be adopted by the authority pursuant to chapter 91. The percentage of such share shall be determined by the authority by contract with the partner based upon the nature of the services rendered by them."

SECTION 8. Section 359G-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority shall sell completed dwelling units or dwelling units which are substantially completed and habitable, developed and constructed hereunder, to qualified residents in fee simple, or shall cause them to be leased or rented to qualified residents, at a price or rental based on cost as determined by the authority; provided that the authority may retain such units as necessary in a project for lease or rental to nonprofit community organizations for community activity or facility purposes. The gross share to the other partners, or contract payments, and any amounts subsidized by the State, including but not limited to the land, need not be counted as cost so as to increase the price. Such may be borne by the State, under rules adopted pursuant to chapter 91, subject to reimbursement upon sale as is provided for in section 359G-9.2."

SECTION 9. Section 359G-12, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read:

“(c) Loans secured [and made] under this section shall be limited to qualified single-family and multi-family housing in accordance with [standards and regulations as may be promulgated and administered] rules adopted by the authority.

- (d) To be eligible for loans under this section, a qualified borrower shall be:
- (1) A citizen of the United States or a [declarant] resident alien;
  - (2) A sound credit risk with ability to repay the money borrowed;
  - (3) [Meet] Qualified under the [standards and regulations as may be promulgated] rules adopted by the authority; and
  - (4) Willing to comply with the regulations as may be promulgated by the director of finance.

The authority shall process all applications and determine who is a qualified borrower under this chapter.”

SECTION 10. The homeownership counseling administrator employed by the authority prior to the effective date of this Act and still so employed on such date shall be accorded all the rights, benefits, and privileges thereto retroactive to the date of his appointment. Such rights and privileges shall include seniority, prior service credit for retirement purposes, vacation and sick leave credit, and salary level, and said employee shall become a civil service employee without necessity of examination.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 12. This Act shall take effect upon its approval.

(Approved May 30, 1978.)

ACT 143

H.B. NO. 2379-78

A Bill for an Act Relating to the Sale of Artistic Prints.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Title 26, Hawaii Revised Statutes, is amended by the addition of a new Chapter to read as follows:

## “CHAPTER — SALE OF FINE PRINTS

**Sec. -1 Definitions.** Whenever used in this chapter, unless the context otherwise requires:

(1) “Artist” means the person who conceived or created or conceived and created the master image for, or which served as a model for, the print.

(2) "Edition" means the number of fine prints made from the plate during a single run.

(3) "Fine print" or "print" means the product created by an artist by a process commonly used in graphic arts including but not limited to engraving, etching, woodcutting, lithography or serigraphy.

(4) "Impression" means the printed image on suitable material, whether paper or any other substance, made off the plate by printing, stamping, casting or any other process commonly used in the graphic arts.

(5) "Plate" includes any "plate, stone, block or other material" used for the purpose of creating the print from which the impression or impressions were taken.

(6) "Proof" means the impression made from a process commonly used in graphic arts for the purpose of correction and examination prior to producing fine prints.

(7) "Reproduction" means a copy of an original print made by a commercial mechanical process which does not require the use of the plate.

(8) "Signed fine print" means an original print signed by the artist signifying examination and approval by the artist and does not refer to a plate containing the signature of the artist.

**Sec. -2 Exemptions.** This chapter shall not apply to:

- (1) Prints which are sold prior to the effective date of this chapter;
- (2) Prints which are clearly and conspicuously described as reproductions and which are not alleged to be signed, numbered, or limited editions or any combination thereof.

**Sec. -3 Acts prohibited; disclosure.**

- (a) No catalogue, prospectus or circular offering fine prints for sale in this State shall be knowingly published or distributed, or both, unless it clearly and conspicuously discloses the relevant informational detail concerning each edition of such prints so offered set forth in section -4.
- (b) If the person offering such prints by means of such publication disclaims knowledge as to any relevant detail referred to in section -4, he shall so state specifically and categorically with regard to each such detail to the end that the purchaser is able to judge the degree of uniqueness or scarcity of each print contained in the edition so offered. Describing the edition as an edition of "reproductions" eliminates the need to furnish further informational details unless such edition was allegedly published in a signed, numbered, or limited edition, or any combination thereof, in which case all of the informational details are required to be furnished.
- (c) No fine print or print shall be knowingly offered for sale or sold in this State by any person, at wholesale or at retail, unless a written invoice or receipt for the purchase price or a certificate furnished to the purchaser clearly and conspicuously discloses all of the relevant informational details required under section -4.

- (d) If the seller disclaims knowledge as to any relevant detail referred to in section -4, he shall so state specifically and categorically with regard to each such detail to the end that the purchaser is able to judge the degree of uniqueness or scarcity of such fine print or print. Describing the print as a "reproduction" eliminates the need to furnish informational details unless it was allegedly published in a signed, numbered, or limited edition, or any combination thereof, in which case all of the informational details are required to be furnished.

**Sec. -4 Informational detail.** The following informational detail shall be required:

- (1) The name of the artist and the year when the fine print or print was printed;
- (2) Exclusive of proofs, whether the edition is being offered as a limited edition, and if so:
  - (A) The authorized maximum number of signed or numbered impressions, or both, in the edition;
  - (B) The authorized maximum number of unsigned or unnumbered impressions, or both, in the edition;
  - (C) The authorized maximum number of artist's, publisher's, printer's or other proofs, if any, outside of the regular edition; and
  - (D) The total size of the edition.
- (3) Whether the plate has been destroyed, effaced, altered, defaced or canceled after the current edition;
- (4) If there were any prior fine print or print of the same impression, utilizing a different process, media, color, or color scheme, the total number of such fine print or print and designation of such fine print or print;
- (5) If there were any prior or later editions from the same plate, the series number of the subject edition and the total size of all other editions;
- (6) Whether the edition is a posthumous edition or restrike and, if so, whether the plate has been reworked;
- (7) The name of the workshop, if any, where the edition was printed.

**Sec. -5 Action for damages and penalties.** (a) Any person who sells a fine print or print who fails to disclose the information required by section -4 shall be liable to the purchaser thereof in an amount equal to the purchase price of the fine print or print.

(b) A person who sells a fine print or print who wilfully fails to disclose the information required by section -4 shall be liable to the purchaser thereof in the amount of \$1,000.00 or in an amount equal to three times the purchase price of the fine print or print, whichever is greater.

(c) No action shall be maintained to enforce any liability under this section unless the person who is injured by the failure to disclose shall have returned the fine print or print to the person violating this chapter and the action is brought within one year after discovery of the violation upon which it is based and in no event more than three years after the fine print or print was sold."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 31, 1978.)

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose of findings.** The purpose of this Act is to correct an inequity in the application of the general excise tax on commissions of insurance general agents, subagents, and solicitors. The legislature finds that under present law insurance agents are prohibited from passing on the excise tax to their customers, while the other occupations which operate on a commission basis are allowed to pass on the tax. The direct result of this differential statutory treatment is that those occupations which can and do pass on the excise tax are subject to an actual burden of .15 per cent while insurance agents are subject to an actual tax burden of either 2 or 4 per cent. The legislature finds that this differential tax treatment is inequitable.

**SECTION 2.** Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 237-13 Imposition of tax.** There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

(1) Tax on manufacturers.

- (A) Upon every person engaging or continuing within the State in the business of manufacturing, including compounding, canning, preserving, packing, printing, publishing, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.
- (B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.
- (C) If any person liable for the tax on manufacturers shall ship or transport his product, or any part thereof, out of the State, whether in a finished or unfinished condition, or shall sell the same for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment

of the tax imposed by this paragraph (1). This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:

- (i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, are the measure of the value of the products.
  - (ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by clause (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in clause (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in clause (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining such values.
  - (iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make his returns under clause (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.
  - (iv) In all cases in which products leave the State in an unfinished condition the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the State.
- (2) Tax on business of selling tangible personal property; producing.
- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross proceeds of sales of the business; provided[,] that insofar as certain retailing is taxed by section 237-16, the tax shall be that levied by section 237-16, and in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business. Upon every person engaging or continuing within this State in the business of a

producer the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1) (C) of this section.

- (B) Gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States and the acts of the Congress of the United States which may be now in force or may be hereafter adopted; and whenever there occurs in the State an activity to which, under the Constitution and acts of Congress, there may be attributed gross proceeds of sales, such gross proceeds shall be so attributed.
- (C) No manufacturer or producer, engaged in such business in the State and selling his products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling his products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer as such.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling his products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to him as well as the tax for the privilege of manufacturing or producing in the State, and he shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of his products required for the privilege of manufacturing or producing in the State. He shall pay the tax imposed in this chapter at the highest rate applicable for any of the privileges exercised by him in respect of the particular products, and the value or gross proceeds of sales of the products, thus subjected to tax at the highest rate, may be deducted insofar as duplicated as to the same products by the measure of tax upon him for the other privileges enumerated in this paragraph (2), paragraph (1), and section 237-16.
- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3) (C) of this section, and in any such case the tax shall be computed pursuant to the election, notwithstanding this paragraph (2) or paragraph (1) to the con-

trary.

- (F) The department, by regulation, may provide that a seller may take from the purchaser of tangible personal property a certificate, in such form as the department shall prescribe, certifying that the sale is a sale at wholesale. If the certificate is so provided for by regulation of the department:
  - (i) Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and
  - (ii) The absence of such a certificate shall, unless the sales of the business are exclusively at wholesale, in itself give rise to the presumption that the sale is not at wholesale.
- (3) Tax upon contractors.
  - (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business; provided[.] that insofar as the business of contracting is taxed by section 237-16, which relates to certain retailing, the tax shall be that levied by section 237-16.
  - (B) In computing the tax levied under this paragraph (3) or section 237-16, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under paragraph (3) (A) or section 237-16, on another taxpayer who is a contractor, as defined, or who is a specialty contractor, duly licensed by the department of regulatory agencies pursuant to section 444-9, in respect of his business as such, if the tax on the amount so deducted has been paid by the other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the name of the person paying the tax on the amount deducted by him or from whom the tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by the other taxpayer with his return, shall relieve the other taxpayer of liability for the amount of tax withheld.
  - (C) In computing the tax levied under this paragraph (3) against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
    - (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction.
    - (ii) The taxpayer making the sale shall have certified to the department that he is taxable with respect to the gross



proceeds of the sale, and that he elects to have the tax on such gross income computed the same as upon a sale to the state government.

- (D) A person who, as a business or as a part of a business in which he is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by him (whether held as a leasehold, fee simple, or otherwise), shall upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, be liable to the same tax as if engaged in the business of contracting, unless he shall show that at the time he was engaged in making the improvements it was, and for the period of at least one year after completion of the building, structure, or other improvements, it continued to be his purpose to hold and not to sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by paragraph (3) (B). Upon the election of the taxpayer this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (10).
- (4) Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within the State in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to four per cent of the gross income of the business.
- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under section 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the services so rendered by him.
- (6) Tax on service business. Upon every person engaging or continuing within the State in any service business or calling not otherwise

specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of any such business; provided, however, where any person engaging or continuing within the State in any service business or calling renders such services upon the order of or at the request of another taxpayer who is engaged in the service business and who, in fact, acts as or acts in the nature of an intermediary between the person rendering such services and the ultimate recipient of the benefits of such services, so much of the gross income as is received by the person rendering the services shall be subjected to the tax at the rate of one-half of one per cent and all of the gross income received by the intermediary from the principal shall be subjected to a tax at the rate of four per cent.

- (7) Tax on insurance solicitors[.] and agents. Upon every person engaged as a licensed solicitor, general agent, or subagent pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to [two] .15 per cent of the commissions due to such activity.
- (8) Professions. Upon every person engaging or continuing within the State in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income on the practice or exposition.
- (9) Tax on receipts of sugar benefit payments. Upon the amounts received from the United States government by any producer of sugar (or his legal representative or heirs), as defined under and by virtue of the Sugar Act of 1948, as amended, or other acts of the Congress of the United States relating thereto, there is hereby levied a tax of one-half of one per cent of the gross amount received, provided that the tax levied hereunder on any amount so received and actually disbursed to another by such producer in the form of a benefit payment shall be paid by the person or persons to whom such amount is actually disbursed, and the producer actually making any such benefit payment to another shall be entitled to claim on his return a deduction from the gross amount taxable hereunder in the sum of the amount so disbursed. The amounts taxed under this paragraph shall not be taxable under any other paragraph, subsection, or section of this chapter.
- (10) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed thereunder as gross income of gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted."

SECTION 3. Section 237-18, Hawaii Revised Statutes, is amended by

amending subsection (f) to read as follows:

“(f) Where insurance agents, including general agents, subagents, or solicitors, who are not employees and are licensed pursuant to chapter 431, or real estate brokers or salesmen, who are not employees and are licensed pursuant to chapter 467, produce commissions which are divided between such general agents, subagents, or solicitors, or between such real estate brokers or salesmen, as the case may be, the tax levied under section 237-13 (6) [.] or under section 237-16 [.] as to real estate brokers or salesmen, or under section 237-13 (7) as to insurance general agents, subagents, or solicitors shall apply to each such person with respect to his portion of the commissions, and no more.”

SECTION 4. Section 431-318, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 431-318 Taxation.** (a) Each authorized insurer, except life insurers and ocean marine insurers, shall pay to the director of finance through the insurance commissioner, in the case of domestic insurers a tax of [2.6325] 2.9647 per cent, and in the case of other insurers a tax of [3.8025] 4.2824 per cent, on the gross premiums received from all risks or property resident, situated, or located within this State, during the year ending on the preceding December 31 less return premiums (but not including dividends paid or credited to policyholders), and less any reinsurance accepted (the tax upon such business being payable by the direct writing insurer).

All premiums written, procured, or received in the State shall be presumed to have been from risks or property resident, situated, or located within the State. This presumption may be rebutted as to any premium: (1) by showing that it has been properly allocated or apportioned and reported as a taxable premium of another state or other appropriate taxing authority; (2) by facts as to the residence, situation, or location of the risks or property, conclusively showing the nontaxability of the premium.

(b) Each life insurer shall pay to the director of finance [.] through the commissioner, in the case of domestic insurers a tax of [1.755] 1.918 per cent, and in the case of other insurers a tax of [2.925] 3.197 per cent, on the gross premiums received from all risks resident within this State, during the year ending on the preceding December 31, less return premiums, dividends paid or credited to policyholders, and reinsurance accepted (the tax upon such business being payable by the direct writing insurer).

The tax also shall apply to premiums for insurance written on individuals residing outside the State unless the direct writing insurer shall show the payment of a comparable tax to another appropriate taxing authority. Such showing may be required as to any premium written, procured, or received in the State.

(c) Each insurer shall, with respect to all ocean marine insurance contracts written within the State, during the year ending on the preceding December 31, pay to the director of finance through the commissioner a tax of .8775 per cent on its gross underwriting profit. The gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance ceded) on such ocean marine insurance contracts, the net losses paid (i.e., gross losses paid less salvage and recoveries on

reinsurance ceded) during such year under such contracts. In the case of an insurer issuing participating contracts, the gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amount refunded, or paid as participation dividends, by such insurer to the holders of such contracts.

(d) No return premium shall be deductible unless the original gross premium, or an adjustment thereof, in an amount equal to or in excess of the return premium, has been concurrently or previously reported as taxable under this section or a prior similar law of the State.

(e) The tax shall be due and payable on March 15 succeeding the filing of the statement provided for in section 431-317. Any insurer failing or refusing to render the statement and to pay the required taxes above stated, for more than thirty days after the time so specified, shall be liable to a penalty of \$25 for each day of delinquency, and the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of this State, in any court of competent jurisdiction, and the commissioner may suspend the certificate of authority of the delinquent insurer until the taxes and fine, should any be imposed, are fully paid.

(f) For the calendar year 1976, and each calendar year thereafter, taxes imposed by subsections (a), (b), and (c) of this section shall be paid as follows:

- (1) Insurers whose annual tax liability for the preceding year was more than \$5,000 shall pay their taxes on a monthly basis. The taxes shall be due and payable on or before the last day of the calendar month following the month in which they accrue;
- (2) Insurers whose annual tax liability for the preceding year was more than \$1,000 and up to \$5,000 shall pay their taxes on a quarterly basis. The taxes shall be due and payable on or before the last day of the calendar month following the quarter in which they accrue; and
- (3) Insurers whose annual tax liability for the preceding year was \$1,000 or less shall pay their taxes as provided for in subsection (e) of this section.

In establishing the prepayment amount of an insurer who has acquired the business of another insurer, the amount of tax liability of the acquiring insurer for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer for that year.

All amounts paid under this subsection, other than penalties, shall be allowed as a credit on the annual tax imposed by subsections (a), (b), and (c) of this section.

If the total amount of installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and be allowed as a refund under section 431-319. Any insurer failing to pay taxes when due and payable, shall be liable to a penalty of \$25 for each day of delinquency, and the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of the State, in any court of competent jurisdiction, and the commissioner may suspend the certificate of authority of the delinquent insurer until the taxes and fine, should be imposed, are fully paid."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This Act shall take effect on January 1, 1979 and the rates as increased by section 4 of this Act shall apply to all premiums and gross underwriting profit received during the calendar year 1979 and thereafter.

(Approved May 31, 1978.)

ACT 145

H.B. NO. 450

A Bill for an Act Relating to Inheritance Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 236-9.1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 236-9.1 Pensions exempt.** The residual proceeds of pensions or other allowances or stipends made by an employer to a deceased employee's surviving spouse, children, parents, brothers, or sisters in consideration of past services of a deceased person or of the surrender of rights or emoluments shall be exempt from all taxes imposed by this chapter; provided that the exemption allowed under this section shall not apply to amounts in excess of \$30,000 of the present value of the pension computed in accordance with section 236-26; provided further that if (1) the residual proceeds of any such pension, allowance, or stipend are payable in periodic installments over the life of the surviving spouse, children, parents, brothers, or sisters and no right or option exists to commute such residual proceeds into the lump sum payment and (2) no residual value to such pension, allowance, or stipend exists upon the subsequent death of the surviving spouse, children, parents, brothers, or sisters, where such residual value is payable in a lump sum either by right or option, then all such residual proceeds shall be exempt from all taxes imposed by this chapter."

SECTION 2. Section 3 of Act 67, Session Laws of Hawaii 1977, is amended to read as follows:

"SECTION 3. This Act, upon its approval, shall apply only to property or interests subject to an inheritance tax under chapter 236 of the Hawaii Revised Statutes that passes from any person who dies after December 31, 1977."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect on July 1, 1978 and shall apply to all annuities falling under chapter 236, Hawaii Revised Statutes, on or after July 1, 1978; provided that section 2 of this Act shall apply retroactively to January 1, 1978.

(Approved May 31, 1978.)

\*Edited accordingly.

A Bill for an Act Relating to Occupational Therapy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
OCCUPATIONAL THERAPY PRACTICE**

**Sec. -1 Practice of occupational therapy; qualifications.** No person shall represent, advertise, or announce himself, either publicly or privately, as an occupational therapist or as an occupational therapy assistant, nor use, in connection with his name or place of business, the words “occupational therapist”, “occupational therapy assistant”, “certified occupational therapist”, “certified occupational therapist assistant”, “occupational therapist registered”, or the letters “OT”, “OTA”, “COT”, “COTA”, or “OTR”, or any other words, letters, abbreviations, or insignia indicating or implying that such person is an occupational therapist or an occupational therapy assistant unless such person meets the qualifications of section -2.

**Sec. -2 Qualifications of occupational therapists and occupational therapy assistants.** Occupational therapists and occupational therapy assistants shall have completed the educational requirements and supervised field work experience required for certification by the American occupational therapy association, and shall have passed a national certification examination administered by that association.

**Sec. -3 Injunction.** The attorney general or the director of the office of consumer protection may bring proceedings to enjoin any violation of this chapter.

**Sec. -4 Civil penalty.** Any person violating any provisions of this chapter shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the director of the office of consumer protection on behalf of the State.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1978.)

A Bill for an Act Relating to Building Permits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 444-9.1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 444-9.1 Issuance of building permits.** Each county or other local subdivision of the State which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure shall also require that each applicant for such a permit file as a condition to the issuance of a permit a statement that the applicant is licensed under this chapter, giving the number of the license and stating that it is in full force and effect, or, if the applicant is exempt from this chapter, the basis for the claimed exemption; provided that if the applicant claims an exemption under section 444-2(7), he shall also be required to certify that the building or structure is for his personal use and not for use or occupancy by the general public.

The county shall verify the license against a list of licensed contractors provided by the State contractors licensing board, which list shall be updated at least quarterly. The county shall also verify that the applicant is in fact the contractor so licensed or his duly authorized agent."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1978.)

**ACT 148**

S.B. NO. 2386-78

A Bill for an Act Relating to the State Comprehensive Emergency Medical Services System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by repealing part XIII and by adding a new part, to be appropriately designated, and to read as follows:

**"PART . STATE COMPREHENSIVE EMERGENCY MEDICAL SERVICES SYSTEM**

**Sec. 321- Findings and purpose.** The legislature finds that the establishment of a state comprehensive emergency medical services system is a matter of compelling state interest, to protect and preserve the health of the people of the State. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve the health needs of the people. Accordingly, the purpose of this part is to establish and maintain a state comprehensive emergency medical services system throughout the State, and to fix the responsibility for the administration of this state system which shall provide for the arrangement of personnel, facilities, and

\*Edited accordingly.

equipment for the effective and coordinated delivery of health care services under emergency conditions whether occurring as the result of a patient's condition or of natural disasters or other causes. The system shall provide for personnel, personnel training, communications, transportation, facilities, coordination with emergency medical and critical care services, coordination and use of available public safety agencies, promotion of consumer participation, accessibility to care, and the transfer of patients, mandatory standard medical record keeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part.

**Sec. 321- Definitions.** As used in this part, unless the context clearly requires otherwise:

- (1) "Advanced life support" means initiating all basic life support care as well as invasive patient care designed to stabilize and support a patient's condition due to sudden illness or injury. The care rendered, excluding basic life support, constitutes the practice of medicine.
- (2) "Advisory committee" means the emergency medical services advisory committee.
- (3) "Basic life support" means initiating non-invasive emergency patient care designed to optimize the patient's chances of surviving the emergency situation. The care rendered consists of all first aid procedures needed, but does not include invasive procedures which constitute the practice of medicine.
- (4) "State system" means the state comprehensive emergency medical services system.

**Sec. 321- State comprehensive emergency medical services system, establishment.** The department of health shall establish, administer, and maintain the state comprehensive emergency medical services system to serve the emergency health needs of the people of the State. The department of health in the implementation of this part shall plan, coordinate and provide assistance to all entities and agencies, public and private, involved in the state system. All emergency medical services or ambulance services conducted by or under the authority of the department of health or any county shall be consistent with this part.

**Sec. 321- Department of health, functions, duties.** In addition to other functions and duties assigned to the department of health under this part, it shall have but not be limited to the following functions and duties. The department shall:

- (1) Regulate ambulances and ambulance services.
- (2) Establish emergency medical services throughout the State, which shall meet the requirements of this part, subject to section 321- .
- (3) Provide training for basic life support personnel, and advance life support personnel, as provided in section 321- .
- (4) Collect and evaluate data for the continued evaluation of the state system subject to section 321- .
- (5) Coordinate emergency medical resources, and the allocation of the state



system's services and facilities, in the event of mass casualties, natural disasters, national emergencies, and other emergencies, ensuring linkage to local, state, and national disaster plans, and participation in exercises to test such disaster plans.

- (6) Establish, administer, and maintain a communication system for the state emergency medical services system.
- (7) Assist each county in the development of a "911" system.
- (8) Secure technical assistance and other assistance and consultation necessary to the implementation of this part, subject to section 321-
- (9) Implement public information and education programs to inform the public of the state system and its use, and to disseminate such other emergency medical information including appropriate methods of medical self-help and first-aid and the availability of first-aid training programs in the State.
- (10) Consult with the advisory committee on matters relating to the implementation of this part.

**Sec. 321- The state emergency medical services advisory committee. (a)**

There is established within the department of health for administrative purposes only the state emergency medical services advisory committee, which shall sit in an advisory capacity to the department of health on all matters relating to the state system. The advisory committee may advise the department of health upon request of the department or upon its own initiative with regard to the state system. The advisory committee shall:

- (1) Monitor, review, and evaluate on an on-going basis the operations, administration, and efficacy of the state system, or any components thereof, to determine conformity with and maximum implementation of this part.
- (2) Prepare and submit periodic assessments, reports, and other documents relating to the state system to ensure the implementation of this part, as deemed necessary or desirable in the discretion of the advisory committee.
- (3) Seek the input of the public in relation to the state system to ensure adequate fulfillment of the emergency medical services needs of the State consistent with this part.
- (4) Participate in any planning or other policy making with regard to the state system, and seek the participation of the public, including subarea health planning councils in its consideration of plans and policies relating to the state system.
- (5) Perform other functions, and have other duties necessary to ensuring the fullest implementation and maintenance of the state system.
- (6) Advise the department of health in formulating a master plan for emergency medical services, including medicom, the "911" system, and other components necessary to meet the emergency medical needs of the people of the State which shall be submitted to the legislature.

(b) The advisory committee shall be composed of fifteen members: three ex-officio members with vote, who shall be the director of transportation, the

adjutant general, and the administrator of the state health planning and development agency, or the designated representatives thereof, and twelve members representing all counties of the State and who shall be appointed by the governor subject to section 26-34 as follows:

- (1) Four members shall be appointed from a panel of not less than eight persons who shall be nominated by the Hawaii Medical Association; provided that the persons nominated shall be physicians experienced in the conduct and delivery of emergency medical services;
- (2) Four members who shall be consumers of health care and who shall have no connection with or relationship to the health care system of the State and who shall be representative of all counties; and
- (3) Four members of allied health professions related to emergency medical services.

The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties, including travel expenses. The chairperson of the advisory committee shall be elected by the members from among their numbers. A majority of the members of the advisory committee shall constitute a quorum for the conduct of business of the advisory committee. A majority vote of the members present at a meeting at which a quorum is established shall be necessary to validate any action of the committee.

(c) The advisory committee may adopt rules for its governance.

(d) The department of health shall provide necessary staff and other support required by the advisory committee for the performance of its duties.

**Sec. 321- Emergency medical services and systems, standards.** The department of health shall establish standards for emergency medical services and for emergency medical service systems consistent with the state system and applicable federal guidelines for such services. In the event the standards are determined or regulated by any other law, or by applicable federal guidelines, standards required to be set by this section shall be at least equivalent to or exceed the other state and federal standards.

**Sec. 321- Regulation of ambulances.** The department of health shall adopt, amend, and repeal rules under chapter 91 for the regulation of ambulances within the State, including but not limited to the certification of vehicles, equipment, supplies, and communications systems. Any person who provides emergency medical service as an employee of any emergency ambulance service shall be subject to chapter 453. In the absence of implementation of certification under chapter 453 the department of health shall provide for the certification of such personnel in accordance with the state system's requirements.

**Sec. 321- Emergency medical services; counties.** The department of health shall determine, in consultation with the advisory committee under section 321- the levels of emergency medical services which shall be implemented in each county. The department of health may contract to provide emergency medical services or any necessary component of a county emergency services system in conformance with the state system. In the event any county shall apply to the department to operate emergency medical ambulance services within the

respective county, the department of health shall contract with the county for the provision of such services. The department shall operate emergency medical ambulance services or contract with a private agency in those counties which do not apply to it under this section. Any county or private agency contracting to provide emergency medical ambulance services under this section shall be required by the department to implement such services in a manner and at a level consistent with the levels determined under this section.

The department of health shall be responsible for providing for the training of first responders and basic life support personnel within counties not applying to provide emergency medical services under this section. The department of health shall adopt rules subject to chapter 91 for the implementation of this section.

**Sec. 321- Emergency medical services personnel, training programs.** The department of health and the counties in the fulfillment of their responsibilities under this part shall be responsible for the training of basic life support personnel, shall contract for the provision of such training with community colleges or other available services. The department of health shall contract for the training of advance life support personnel with a professional medical organization which has experience in such training; provided that such training shall be conducted in the State to the extent that such training is available within the State, to minimize costs and more importantly, to familiarize and instruct personnel in conjunction with the state system and the environs in which they will be working. The department of health and the counties shall consult with the advisory committee on the selection of any contractors who shall provide such services.

**Sec. 321- Technical assistance, data collection, evaluation.** The department of health shall contract with appropriate professional medical organizations with expertise in emergency medical services for technical assistance and consultation, including but not limited to categorization, data collection, and evaluation appropriate to the needs of the state system. Such contracting shall be accomplished in consultation with the advisory committee.

For the purposes of this section, "categorization" means systematic identification of the readiness and capabilities of hospitals and their staffs to adequately, expeditiously, and efficiently receive and treat emergency patients. The department of health in determining the parameters of any contract services under this section, shall consult with the advisory committee.

**Sec. 321- Grants.** The state system may seek and accept any funds or property and other desirable support and assistance from any source whatsoever, whether gift, grant, services or any combination thereof, subject to applicable laws. In the event that any grant applications are made in relation to the state system, or any component thereof, the department shall consult with the advisory committee and provide technical assistance in the preparation, management, or administration of the application or the grant, or both.

**Sec. 321- Revenues; deposit into state general fund.** (a) The department of health shall establish reasonable fees for services rendered to the public by the department of health, any county or private agency under this part; provided that

all such revenues which shall be collected by the department of health and the respective counties shall be deposited into the state general fund. Fees required to be set by this section shall be established in accordance with chapter 91.

(b) No ambulance services, or any other emergency medical services available from or under the authority of this chapter shall be denied to any person on the basis of the ability of the person to pay therefor or because of the lack of prepaid health care coverage or proof of such ability or coverage.

(c) In the event of nonpayment of any fees required to be assessed by this section, the department of health shall determine whether the recipient of such services is financially able to pay such fees and make every reasonable effort to collect such fees. In the event the department finds the person is without sufficient resources to pay for the services, no further action to collect the fees shall be taken. If the services are paid by a county or any other entity, and collection of such fee is delegated by contractual agreement to the county or other agency which provides the services, the county or other agency shall forward records relating to unpaid fees for action by the department of health under this subsection. No county or other entity shall make a final determination of the ability of a person to pay under this subsection. Any determination of ability to pay for purposes of this subsection shall be in accordance with rules which the department of health shall adopt, subject to chapter 91, governing such determinations.

**Sec. 321- Rules.** The director of health may adopt, amend, and repeal rules necessary to the implementation of this part, subject to chapter 91."

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended in the following ways:

1. By adding a new part to be appropriately designated and to read as follows:

**"PART . EMERGENCY MEDICAL SERVICE PERSONNEL**

**Sec. 453- Emergency ambulance service personnel.** The practice of any emergency medical services by any individual employed by an emergency ambulance service who is not licensed under this chapter or under chapter 457 shall be subject to certification under this part. In the event of any conflict between this part and any rules adopted under section 453-2, the provisions of this part shall control with regard to emergency ambulance service personnel.

**Sec. 453- Certification of emergency ambulance personnel.** The board of medical examiners shall certify individuals as qualified in emergency medical services upon application therefor; provided that the applicant for certification:

- (1) Has successfully passed an examination recognized by the board of medical examiners to determine the knowledge and competence of emergency ambulance personnel; or who has satisfactorily passed a board-recognized course of training in emergency medical services for emergency ambulance services personnel; or who meets other standards and qualifications which may be set by the board of medical examiners pertinent to the emergency medical services work of emergency ambulance services personnel;

(2) Meets continuing education requirements which shall be set by the board of medical examiners; and

(3) Meets other qualifications set by the board of medical examiners.

Certification under this section shall be a prerequisite to the practice of emergency medical services as an employee of an emergency ambulance service.

The board of medical examiners shall provide standard application forms for the certification of emergency ambulance personnel, and shall provide for the periodic renewal of such certification. The board of medical examiners shall assess a fee for such application, certification, and renewal. The board of medical examiners shall provide for the lapsing, revocation, suspension, or limitation of certification in the event an individual once certified under this section fails to maintain or meet requirements for continued certification, or for good cause shown.

**Sec. 453- Rules.** The board of medical examiners shall adopt rules to implement this part, subject to chapter 91."

2. By amending section 453-2, to read as follows:

**"Sec. 453-2 License required; exceptions.** Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." or "M.D." to his name, with the intent thereby to imply that he is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery; (2) prohibit service in the case of emergency or the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided [,] that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel and physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity

with chapter 91, promulgate rules and regulations regarding standards of medical education and training governing physician-support personnel and physician's assistant, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section 671-3. Any person who provides emergency medical services as a full or part-time employee of any emergency ambulance service shall be certified under part ."

SECTION 3. Section 27-21.6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 27-21.6 Functions reassigned to the counties.** The following functions are hereby reassigned to the several counties:

- [(1)] (1) Ambulance and first aid services, if the county has a population of 200,000 or more;
- [(2)] (1) The medical care of inmates of county jails;
- [(3)] (2) The rendering of medical investigatory services requested by the police;
- [(4)] (3) Physical examinations of employees to the extent that such functions had been performed immediately prior to the adoption of Act 97, Session Laws of Hawaii 1965; and
- [(5)] (4) The care and treatment of county workers' compensation cases to the extent that such functions have been performed immediately prior to the adoption of Act 97, Session Laws of Hawaii 1965."

SECTION 4. Persons currently employed by emergency ambulance services and who are required to be certified in such capacities and functions by this Act shall be so certified within two years after the effective date of this Act. No action shall be taken by any person against such individuals or their employers with regard to the lack of such certification until after the two years allowed by this section shall have elapsed.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$687,000, or so much thereof as may be necessary, as a grant-in-aid to the Hawaii Medical Association, for the continuation and expansion of its emergency services program and technical assistance in relation thereto, including the following components:

- (1) Training of ambulance personnel (emergency medical technician-ambulance, and medical intensive care technicians, paramedic levels);
- (2) Continuing education of emergency services physicians;
- (3) Continuing education of emergency intensive care, and critical care nurses;
- (4) Training of public safety first responders, firefighters, police officers, and ocean lifeguards;
- (5) Data collection and analysis of emergency medical care delivery;
- (6) Evaluation of emergency medical services;
- (7) Research and development of information on techniques for handling disasters and poisonings; and
- (8) Dissemination of information to the public to enable rapid and

knowledgeable use of the emergency medical service system.

The sum appropriated herein shall be expended by the department of health for the purposes of this section. Any unexpended or unencumbered balance of any appropriation made by this section as of the close of business on June 30, 1979 shall lapse into the general fund.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This Act shall take effect on July 1, 1979, provided that section 5 of this Act shall take effect on July 1, 1978.

(Approved June 1, 1978.)

ACT 149

H.B. NO. 2827-78

A Bill for an Act Relating to School Health Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish a statewide school health services program. There shall be within the department of health a permanent comprehensive school health services program for grades kindergarten through twelve in all the public schools of this State. It is in the general welfare of the State to protect, preserve, care for, and improve the physical and mental health of Hawaii's children by making available at the public schools first aid and emergency care, preventive health care, health appraisals and follow-ups, and health room facilities.

SECTION 2. Department of health; implementation. The department of health shall implement this program with the present health services now provided to those schools under the pilot project established under Act 130, Session Laws of Hawaii 1970, to each public school, and shall further provide the necessary number of health aides in order to service each public school. School health aides may provide health related screening services at each public school.

SECTION 3. The department of health shall provide registered professional nurses at the entry or next level, and each nurse shall be placed at a school health complex established by the department of health in consultation with the school health services advisory committee.

SECTION 4. School health services advisory committee; appointment and duties. There is created a school health services advisory committee, consisting of fifteen members, the purpose of which is to coordinate, guide, and evaluate the school health services program and make recommendations to the director of the department of health or his assigned representative. Furthermore,

the function of the committee shall be to provide coordination, guidance, evaluations, and make recommendations for school health related services including but not limited to school health education, vision and hearing screening, dental education, immunization, nutrition, and individual health counseling. The committee shall consist of seven members from the city and county of Honolulu; one from the county of Maui; two from the county of Hawaii; one from the county of Kauai; and four statewide members. The members of the school health services advisory committee shall be appointed by the governor and shall serve without pay.

Two years from the approval of this act the committee and the director of the department of health shall make a determination as to the future need of the advisory committee. If at that time the purpose and function of the committee is no longer needed the department of health shall assume the function and purpose of the advisory committee.

**SECTION 5. School health aides.** All full-time school health aides employed in the department of health shall be employed under chapter 76 and shall have their compensation fixed in accordance with chapter 77; provided that their compensation shall be based on a six and one-half hour work day and provided that:

- (1) The monthly rate of compensation for all school health aides employed less than full-time shall be based on the number of hours they actually work;
- (2) The monthly rate of compensation for full-time health aides so determined shall be multiplied by ten and then divided by twelve and the resulting amount shall be the employee's monthly salary payable over a twelve-month period;
- (3) The health aides shall have the same working schedule and leave allowance of school teachers in the department of education.

**SECTION 6. Personnel transfer.** All officers and employees, including "full-time" nurses, "full-time" but not "substitute" health aides, and clerks whether or not subject to chapters 76 and 77, or under contractual employment of the department of health or the department of education for the school health services pilot project established under Act 130, Session Laws of Hawaii 1970, and any expansion of services thereafter, shall be transferred to the school health services program established by this Act with their functions and shall continue to perform their duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee so transferred shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act, but may be transferred or appointed to a civil service position without the necessity of examination; provided that the person possesses the minimum qualifications for the position to which the person is transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

**SECTION 7. Appropriation.** There is appropriated out of the general



revenues of the State of Hawaii the sum of \$653,179 (168.90), or so much thereof as may be necessary, for the purpose of funding the school health services program.

The sum appropriated shall be expended by the department of health for the purpose of this Act.

Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1979 shall lapse into the general fund.

SECTION 8. Act 130, Session Laws of Hawaii 1970, is repealed.

SECTION 9. This Act shall take effect upon approval.

(Approved June 1, 1978.)

ACT 150

S.B. NO. 2114-78

A Bill for an Act Relating to a Job-Sharing Pilot Project in the Department of Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the increasing mobility of society, changing patterns of socio-economic needs and values, and the economic realities of life in Hawaii require consideration of innovative approaches to ensuring the availability of sufficiently flexible employment opportunities to meet the varying needs of Hawaii's people. Job sharing, which would provide half-time positions in place of full-time positions, is an innovation which will increase the available employment options so that people may have the opportunity to be employed on the basis of their financial or other needs, without, perhaps, the necessity of being employed on a full-time basis. The legislature further finds that the merits of job sharing warrant systematic experimentation to determine its utility as an employment option. The department of education, the legislature finds, is an appropriate agency within which to initiate a job sharing pilot project, due to the possibility of expanding the number of jobs under job sharing and its possible impact upon the disproportionate numbers of unemployed teachers in the State. Moreover, implementation of job sharing may create more stimulating environments for tenured teachers in their professional capacities, and may also provide additional educational stimulus for students. The augmentation of teachers' skills may also be a result of job sharing in the department of education, for teachers would have greater time available to them to pursue additional training and education, further benefiting the educational system of the State.

The purpose of this Act, therefore, is to establish a voluntary job sharing pilot project in the department of education.

SECTION 2. There is established a three-year job sharing pilot project to be conducted by the department of education for the 1978-79, 1979-80 academic years; provided, however, that the department of education shall not implement the pilot project without first carefully developing its plans, procedures and

guidelines and shall initiate the project to the extent practicable during the 1978-79 academic year. Job sharing, for the purpose of this Act, is the voluntary equal division of one full-time permanent position between two employees, each performing one-half of the work required for the permanent position. The two half-time positions resulting from the division of one full-time position shall constitute two job sharing positions. The department of education shall devote no more than one hundred full time, permanent positions to job sharing, pursuant to this Act. The department shall administer the pilot project established by this Act, and shall, in consultation with the representatives of the appropriate bargaining units adopt guidelines for the implementation of this Act.

**SECTION 3.** The following shall constitute general requirements of the pilot project, and shall be followed in the implementation of this Act:

- (1) The superintendent of education shall announce the pilot project to all full-time, tenured, certificated personnel of the department excluding educational officers and persons not actually engaged in classroom teaching, and shall solicit the voluntary requests of such personnel who may be interested in participating in the job sharing pilot project.
- (2) The superintendent shall, in consultation with the recognized employee bargaining units, formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who may request information shall receive a full written description of the terms of the pilot project when the guidelines are finalized and those desiring to participate may apply to participate in the project. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the superintendent. Those who qualify shall then be interviewed by a personnel officer of the department. Participation shall be for school years 1978-79, 1979-80, or 1980-81, except as provided in paragraph (6) of this section. No more than five per cent of the eligible personnel at any school shall be accepted to participate in the project.
- (3) Upon the selection of a permanent, full-time employee for job sharing under this Act, the superintendent shall for the purposes of this Act, convert the position of the employee into two job sharing positions, one of which shall be filled by the employee, and the other which shall be filled by hiring under this Act.
- (4) Persons hired to fill job sharing positions shall be recruited through this Act; provided that any person hired for a job sharing position shall possess the minimum requirements of the full-time position which was converted to job sharing positions under this Act.
- (5) Job-sharing is, for the purpose of this Act, the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per week, and with each receiving half of the salary to which each is respectively entitled and at least half of each employee benefit afforded to full-time employees. Benefits that can be divided in half, such as the number of days of sick leave, and are considered to be an equitable

share when divided, shall be computed on that basis. Benefits that cannot be so divided, such as eligibility for membership in the public employees health plan shall be given to the job-sharers, without such division, notwithstanding any contrary provision of chapters 87 or 88. The newly hired job sharer shall be excluded from collective bargaining as provided under chapter 89.

The full-time permanent employee shall not lose membership in an employee bargaining unit because of participation in this project, any law to the contrary notwithstanding. Union membership or service fees paid by job sharers under this Act shall be at a level consistent with normal union membership dues or service fees. The State's contribution to a job sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any other provision of the law to the contrary notwithstanding. Job-sharers shall be covered under chapter 386 and the applicable provisions of chapter 383. Service credit for tenured teachers participating in the pilot project under this Act shall be given on the same basis as that for full-time employees. Nothing in this Act shall be construed, however, to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job sharing pilot project. The granting of tenure shall be under applicable statutes. No full-time position shall be abolished or reduced to a half-time position as a result of this Act, except for the purpose of job-sharing, and only for the time allowed for the project by this Act. In a reduction-in-force procedure, consideration of a job-sharer's tenure rights shall be on the same basis as that of a full-time employee. Nothing in this Act shall impair the employment or employment rights or benefits of any employee.

- (6) Participation in the pilot project shall require the commitment on the part of all parties to a contractual agreement; provided that the employee shall be given the option to contract for one or more years.
- (7) No job sharing position created under this Act and committed to a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the department of education on the part of any person shall be filled through recruitment of another person pursuant to this Act.
- (8) Upon the termination of contractual agreements under this Act, all job sharing positions shall be reconverted to full-time positions, and the employees who held the full-time positions prior to their participation in the pilot project shall be entitled to resume their positions without loss of previous tenure, or other employee rights.

**SECTION 4.** The office of the legislative auditor shall monitor and evaluate the pilot project, with particular regard to the efficacy of the job sharing concept, and shall evaluate factors such as turnover rates, absenteeism, produc-

tivity, morale, and demographic factors such as ethnic, sex, and age composition of participants, and other pertinent data. The office of the legislative auditor shall also among other analyses identify factors which facilitated or made more difficult the implementation of this Act. The office of the legislative auditor shall submit status reports on its findings to the regular legislative sessions of 1979, 1980, and 1981 and may report on its findings and recommendations to the legislative session of 1982.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 151

S.B. NO. 518

A Bill for an Act Relating to Land Trusts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
LAND TRUSTS—BENEFICIARY CONTROLLED**

**Sec. -1 Title.** This chapter shall be known and may be cited as the Land Trust Act.

**Sec. -2 Purpose.** The purpose of this chapter is to authorize those trusts which incorporate it by reference to convey legal and equitable title to real estate in trust to a qualified trustee; to define the nature and extent of the beneficiaries' interest in the trust property; to define the obligations of persons dealing with the trustee to inquire into the trustee's authority; and to provide for disclosure of the identity and interest of the trust beneficiaries.

**Sec. -3 Definitions.** As used in this chapter, unless the context otherwise requires:

“Recorded instrument” means any conveyance, deed, mortgage, lease assignment, or other instrument relating to this chapter and duly executed and recorded with the bureau of conveyances or the land court of the State.

**Sec. -4 Creation of trust, powers of trustee.** Any recorded instrument transferring any interest in real property in this State, including but not limited to, leasehold and mortgagee's interests, to any person, corporation, bank, or trust company, qualified to act as a trustee in this State, whether or not reference is made in such recorded instrument to any separate unrecorded collateral declarations or agreements, shall be effective to vest in the trustee full rights of ownership over the real property or interest therein, with full power and authority as granted and provided in the recorded instrument to deal in and with the property or interest therein or any part thereof. Any trust authorized pursuant to this chapter shall be valid notwithstanding the fact that the recorded instrument fails to state the duties imposed upon the trustee.

**Sec. -5 Inquiry into authority of trustee.** Any grantee, mortgagee, lessee, transferee, assignee, or person obtaining satisfaction, releases, or otherwise in any way dealing with the trustee with respect to the real property held in trust under the recorded instrument, may but shall not be obligated to inquire into the identification or status of any named or unnamed beneficiaries, or their heirs or assigns to whom a trustee may be accountable under the terms of the recorded instrument, or under any unrecorded separate declarations or agreements collateral to the recorded instrument whether referred to in the recorded instrument or not, nor to inquire into or ascertain the authority of such trustee to act within and exercise the powers granted under the recorded instrument, nor to inquire into the adequacy or disposition of any consideration, if any is paid or delivered to the trustee in connection with any interest so acquired from the trustee, nor to inquire into any of the provisions of any of the unrecorded declarations or agreements.

**Sec. -6 Conveyance by trustee.** Any person dealing with the trustee under the recorded instrument shall take any interest transferred by the trustee free and clear of the claims of all the beneficiaries of the trust, and of any unrecorded separate declarations or agreements collateral to the unrecorded instrument whether referred to in the recorded instrument or not, and of anyone claiming by, through or under such beneficiaries including, and without limiting the foregoing to, any claim arising out of any dower or curtesy interest of the spouse of any beneficiary thereof; provided that nothing herein contained shall prevent the beneficiary of any unrecorded collateral declarations or agreements from enforcing the terms of the unrecorded collateral declarations or agreements against the trustee.

**Sec. -7 Personal Property.** In all cases where the recorded instrument contains a provision defining and declaring the interest of beneficiaries to be personal property only, the provision shall be controlling for all purposes where the determination shall become an issue under the laws or in the courts of this State.

**Sec. -8 Disclosure of Beneficiaries.** Any trust created hereunder shall be invalid unless the recorded conveyance document transferring title to the trustee discloses the name and pro rata interest of each beneficiary of said trust."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 152

S.B. NO. 1622-78

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following names of persons, firms, and corporations

for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

Section 37-77, Hawaii Revised Statutes.

REFUND OF TAXES:

	Division	Amount
Smith, Will B. and Margaret K. (Real Property)	Third	\$ 49.06
Noah, Elizabeth K. (Real Property)	Third	141.09
You, Joseph C. D. (Real Property)	Third	48.72
Ama-Pro Sporting Goods of Hawaii, Inc.	Third	777.50
Dobson, George (Real Property)	First	265.84
Kaniaupio, Louise L.	First	244.95

Chapter 662, Hawaii Revised Statutes

JUDGMENTS AGAINST THE STATE AND SETTLEMENT OF CLAIMS:

Miyashiro, Walter T.

Civil No. 48236, First Circuit

Date of Judgment: April 14, 1977

Amount of Judgment: \$ 8,000.00

4% Interest: 414.68 \$ 8,414.68

Simpson, Sakae, individually and as Executrix  
of Estate of William Simpson and Wyatt Wood

Civil No. 43524, First Circuit

Date of Judgment: April 18, 1977

Amount of Judgment: 4,000.00

4% Interest: 205.59 4,205.59

Jorgenson, Phillip Lyman and Judith Josephine

Civil No. 43118, First Circuit

Date of Judgment: April 21, 1977

Amount of Judgment: 7,500.00

4% Interest: 383.01 7,883.01

Van Ness, James C. and Van Ness, Richard E.

Civil No. 44740, First Circuit

Date of Judgment: April 26, 1977

Amount of Judgment: 2,000.00

4% Interest: 101.04 2,101.04

Bell, Marvel E.

Civil No. 44018, First Circuit

Date of Judgment: May 11, 1977

Amount of Judgment: 3,000.00

4% Interest: 146.63 3,146.63

Ventura, Franklin, individually and as Guardian Prochein Ami for Rodney Ventura, a minor Civil No. 1738, Fifth Circuit Date of Judgment: May 17, 1977		
Amount of Judgment:	5,000.00	
4% Interest:	241.10	5,241.10
Ramos, Andrew Galesa, by his next friend, John Ramos, and John Ramos and Emilia Ramos Civil No. 45441, First Circuit Date of Judgment: May 20, 1977		
Amount of Judgment:	23,000.00	
4% Interest:	1,101.48	24,101.48
Espindola, William Civil No. 46427, First Circuit Date of Judgment: July 1, 1977		
Amount of Judgment:	500.00	
4% Interest:	21.64	521.64
Blankenship, William, et al. Civil No. 38455, First Circuit Date of Judgment: July 8, 1977		
Amount of Judgment:	7,500.00	
4% Interest:	318.90	7,818.90
Clevinger, David W., a minor, by his next friend, Jacques Clevinger and individually, Jacques Clevinger and Grace M. Clevinger Civil No. 43365, First Circuit Date of Judgment: July 21, 1977		
Amount of Judgment:	1,238.72	
4% Interest:	50.91	1,289.63
Takamoto, Jerald N. and Barbara Civil No. 39124, First Circuit Date of Judgment: August 4, 1977		
Amount of Judgment:	5,000.00	
4% Interest:	197.81	5,197.81
Kiessling, Charlotte Civil No. 48044, First Circuit Date of Judgment: October 17, 1977		
Amount of Judgment:	16,000.00	
4% Interest:	503.23	16,503.23
Bachiller, Thomas, Jr., et al. Civil No. 44845, First Circuit Date of Settlement: August 16, 1977		
Amount of Settlement:	35,000.00	
4% Interest:	1,338.63	36,338.63

Lossner, Richard W., Celia J. and William R.			
Civil No. 1603, Fifth Circuit			
Date of Settlement: November 28, 1977			
Amount of Settlement:	850.00		
4% Interest:	22.82	872.82	
Mariano, Chris, next of friend of Christina C.			
Mariano, a minor			
Civil No. 46239, First Circuit			
Date of Judgment: October 3, 1977			
Amount of Judgment:	12,500.00		
4% Interest:	412.33	12,912.33	
Marlang, Francisco, a minor, by his Prochein			
Ami, Emilio Marlang and Elena Marlang, and			
Emilio Marlang and Elena Marlang, individually			
Civil No. 46615, First Circuit			
Date of Judgment: October 5, 1977			
Amount of Judgment:	1,887.30		
4% Interest:	61.84	1,949.14	
Poulin, Steven			
Civil No. 46611, First Circuit			
Date of Judgment: December 7, 1977			
Amount of Judgment:	318,000.00		
4% Interest:	8,224.44	326,224.44	
Caday, Dionisia and Silverio			
Civil No. 40392, First Circuit			
Date of Judgment: November 28, 1977			
Amount of Judgment:	5,750.00		
4% Interest:	154.38	5,904.38	
Nagasawa, Gary and Elizabeth			
Civil No. 3792, Third Circuit			
Date of Judgment: December 20, 1977			
Amount of Judgment:	1,000.00		
4% Interest:	24.44	1,024.44	
Smith, C. Stanard			
Civil No. 49055, First Circuit			
Date of Judgment: November 9, 1977			
Amount of Judgment:	28,500.00		
4% Interest:	824.55	29,324.55	
Nishi, Violet Michie, Sharon Eiko and Robert Shigeo			
Civil No. 46957, First Circuit			
Date of Settlement: September 28, 1977			
Amount of Settlement:	1,000.00		
4% Interest:	33.53	1,033.53	



Thouas, Thomas and Daisy		
Civil No. 3724, Third Circuit		
Date of Settlement: January 6, 1978		
Amount of Settlement:	104,666.67	
4% Interest:	2,362.89	107,029.56
Alston, Paul		
Betts v. Reliable Collection Agency		
Civil No. 76-0123, U.S. District Court		
Date of Judgment: August 31, 1977		
Payment of Attorney's Fees		6,777.50
Legal Aid Society of Hawaii		
Hanako Dennis v. Chang		
Civil No. 75-0115, U.S. District Court		
Date of Judgment: June 17, 1977		
Payment of Attorney's Fees		3,196.41
Jensen, Frederick D.		
Civil No. 52447, First Circuit		
Date of Judgment: January 23, 1978		
Amount of Judgment:	5,000.00	
4% Interest:	103.56	5,103.56
Ho, Berdinius, et al.		
Civil No. 49889, First Circuit		
Date of Judgment: January 31, 1978		
Amount of Judgment:	4,000.00	
4% Interest:	79.34	4,079.34
Chai, Eileen, as next friend of Natalie Chai, a minor		
Civil No. 48420, First Circuit		
Date of Judgment: October 3, 1977		
Amount of Judgment:	5,124.76	
4% Interest:	168.49	5,293.25
United States of America		
Civil No. 75-3803, U.S. District Court		
for the District of Hawaii		
Date of Judgment: November 6, 1975		
Amount of Judgment:	22,208.00	
6% Interest:	4,829.78	
Duplicating Costs:	47.70	27,085.48
Hawaiian Bitumuls and Paving Co., Ltd.		
Civil No. 53017, First Circuit		
Date of Judgment: January 26, 1978		
Amount of Judgment:	5,000.00	
4% Interest:	101.92	5,101.92

Estate of Rudolph Steiner		
Civil No. 2737, Second Circuit		
Date of Judgment: February 1, 1978		
Amount of Judgment:	30,000.00	
4% Interest:	591.78	30,591.78
Souza, Francine		
Civil No. 49185, First Circuit		
Date of Judgment: February 28, 1978		
Amount of Judgment:	2,500.00	
4% Interest:	41.92	2,541.92
Bajo, Buenaventura, et al.		
Civil No. 48051, First Circuit		
Date of Settlement: February 7, 1978		
Amount of Settlement:	7,500.00	
4% Interest:	143.01	7,643.01
Neves, Clarence F.		
Civil No. 49693, First Circuit		
Date of Settlement: February 16, 1978		
Amount of Settlement:	20,000.00	
4% Interest:	361.64	20,361.64
Estate of Charles E. Manning, et al.		
Civil No. 3996, Third Circuit		
Date of Judgment: March 3, 1978		
Amount of Judgment:	22,500.00	
4% Interest:	369.86	22,869.86
Steward, Dean M., et al.		
Civil No. 47658, First Circuit		
Date of Judgment: February 27, 1978		
Amount of Judgment:	6,000.00	
4% Interest:	101.26	6,101.26
Reinecke, John E. and Aiko T.		
Civil No. 53162, First Circuit		
Date of Judgment: March 15, 1978		
Amount of Judgment:	250,000.00	
4% Interest:	3,780.82	253,780.82
Ah Quin, Ruby K.		
Civil No. 49731, First Circuit		
Date of Settlement: March 7, 1978		
Amount of Settlement:	3,000.00	
4% Interest:	48.00	3,048.00

Disher, Henry M.		
Civil No. 2780, Third Circuit		
Date of Judgment: March 28, 1978		
Amount of Judgment:	6,500.00	
4% Interest:	89.04	6,589.04
Union Building Materials Corp. and Camilla Casey		
Civil No. 51232, First Circuit		
Date of Judgment: March 23, 1978		
Amount of Judgment:	4,500.00	
4% Interest:	64.11	4,564.11

Section 37-77, Hawaii Revised Statutes

OUTLAWED WARRANTS AND ESCHEATED ACCOUNTS:

	<b>Warrant Number</b>	<b>Amount</b>
Social Security Administration	W-162033	\$ 46,612.20
Young, Walter W. K.	S-104186	29.87
Watson, Doris	S-188261	134.65

MISCELLANEOUS CLAIMS:

Maeha, Gordon K.		
Damages to car by vandals while on duty as Safety Security Aide at Roosevelt High School, February 4, 1977		312.00
Nakamura, John H.		
Damage to car in Kahuku High and Elementary School parking lot, September 14, 1977		89.80
Resler, Lois M.		
Damage to car by vandals at Roosevelt High School, October 11, 1977		57.20
Hookano, Glenn		
Damage to car by vandals at McKinley High School, November 21, 1977		197.00
Sykes, Gaile		
Damage to car by vandals at McKinley High School, May 13, 1977		169.31
Lum, Dr. Calvin W.S.		
For veterinary medical services rendered for injuries received by dog belonging to Larry W. Tennyson while confined at the State quarantine station, March 14, 1977		1,407.20
Carter, Barbara		
Damage to car by resident at Waimano Training School and Hospital, July 23, 1976		27.82

Cordeiro, Shirley	
Damages to two rings by resident at Waimano Training School and Hospital, October 29, 1976	205.92
DePonte, Carol	
Damages to wrist watch by resident at Waimano Training School and Hospital, December 14, 1977	45.00
Doi, Tom	
Damages to car by resident at Waimano Training School and Hospital, July 23, 1976	44.36
Enriquez, Rosalina	
Damage to car by resident at Waimano Training School and Hospital, April 22, 1977	4.56
Gabriel, Lavern	
Damage to car by resident at Waimano Training School and Hospital, March 23, 1977	8.27
Perry, Herbert	
Damage to car by resident at Waimano Training School and Hospital, March 23, 1977	5.25
Tansioco, Francisco	
Damage to car by resident at Waimano Training School and Hospital, February 1, 1977	56.78
Tuquero, Susana	
Damage to car by resident at Waimano Training School and Hospital, May 23, 1977	7.88
Halicon, Douglas	
Damages to wrist watch by patient at Hawaii State Hospital, February 9, 1978	44.99

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of the department of taxation as to claims for overpayment of taxes; and (2) upon voucher approved by the director of the department of budget and finance as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate of four per cent (4%) a year, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State.

SECTION 4. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 153

S.B. NO. 1752-78

A Bill for an Act Relating to Free Emergency Ambulance Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-14, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 3. This Act shall take effect on July 1, 1979.

(Approved June 1, 1978.)

ACT 154

S.B. NO. 2436-78

A Bill for an Act Relating to Litter Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 339-7, Hawaii Revised Statutes, is amended by amending Subsection 339-7(a), Hawaii Revised Statutes, to read as follows:

**"Sec. 339-7 Beverage container requirements.** (a) No person shall sell or offer for sale in this State any beverage in metal containers so designed and constructed that a part of the container is permanently detached in opening the container. However, nothing in this subsection shall prohibit the sale or offer for sale of a container the only detachable part of which is a piece of pressure sensitive tape."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 155

H.B. NO. 617

A Bill for an Act Relating to the Uniform Commercial Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 490, Hawaii Revised Statutes, is amended in the following particulars:

1. By amending section 490:1-105 to read:

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\*Edited accordingly.

**“Sec. 490:1-105 Territorial application of the chapter; parties’ power to choose applicable law.** (1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this State and also to another state or nation the parties may agree that the law either of this State or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this State.

(2) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 490:2-402.

Applicability of the Article on Bank Deposits and Collections. Section 490:4-102.

Bulk transfers subject to the Article on Bulk Transfers. Section 490:6-102.

Applicability of the Article on Investment Securities. Section 490:8-106.

Perfection provisions of the Article on Secured Transactions. Section 490:9-103.”

2. By amending section 490:1-201 to amend the definition of “buyer in ordinary course of business” to read:

“(9) “Buyer in ordinary course of business” means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.”

3. By amending section 490:1-201(37) to read:

“(37) “Security interest” means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 490:2-401) is limited in effect to a reservation of a “security interest”. The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under section 490:2-401 is not a “security interest”, but a buyer may also acquire a “security interest” by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a “security interest” but a consignment is in any event subject to the provisions on consignment sales (section 490:2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.”

4. By amending section 490:2-107 to read:

**"Sec. 490:2-107 Goods to be severed from realty: recording.** (1) A contract for the sale of minerals or the like (including oil and gas) or a structure or its materials to be removed from realty is a contract for the sale of goods within this Article if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in subsection (1) or of timber to be cut is a contract for the sale of goods within this Article whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(3) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale."

5. By amending section 490:5-116 to read:

**"Sec. 490:5-116 Transfer and assignment.** (1) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.

(2) Even though the credit specifically states that it is nontransferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his right to proceeds. Such an assignment is an assignment of an account under Article 9 on Secured Transactions and is governed by that Article except that

(a) The assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Article 9; and

(b) The issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and

(c) After what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

(3) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate drafts or demands drawn under the credit."

6. By amending section 490:9-102 to read:

**"Sec. 490:9-102 Policy and subject matter of article.** (1) Except as otherwise provided in section 490:9-104 on excluded transactions, this Article applies

- (a) To any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper or accounts; and also

- (b) To any sale of accounts or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in section 490:9-310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply."

7. By amending section 490:9-103 to read:

**"Sec. 490:9-103 Perfection of security interests in multiple state transactions.** (1) Documents, instruments and ordinary goods.

- (a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).
- (b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.
- (c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until thirty days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.
- (d) When collateral is brought into and kept in this State while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by part 3 of this Article to perfect the security interest,
  - (i) If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this State, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;
  - (ii) If the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected



- thereafter;
- (iii) For the purpose of priority over a buyer of consumer goods (subsection (2) of section 490:9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).
- (2) Certificate of title.
- (a) This subsection applies to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.
  - (b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from the jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.
  - (c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this State and thereafter covered by a certificate of title issued by this State is subject to the rules stated in paragraph (d) of subsection (1).
  - (d) If goods are brought into this State while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this State and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.
- (3) Accounts, general intangibles and mobile goods.
- (a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).
  - (b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

- (c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected instead by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.
- (d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.
- (e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper. The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located."

8. By amending section 490:9-104 to read:

**"Sec. 490:9-104 Transactions excluded from article.** This Article does not apply

- (a) To a security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or
- (b) To a landlord's lien; or
- (c) To a lien given by statute or other rule of law for services or materials except as provided in section 490:9-310 on priority of such liens; or
- (d) To a transfer of a claim for wages, salary or other compensation of an

- employee; or
- (e) To a transfer by a government or governmental subdivision or agency; or
- (f) To a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to an assignee who is also to do the performance under the contract or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness; or
- (g) To a transfer of an interest or claim in or under any policy of insurance, except as provided with respect to proceeds (section 490:9-306) and priorities in proceeds (section 490:9-312); or
- (h) To a right represented by a judgment (other than a judgment taken on a right to payment which was collateral); or
- (i) To any right of set-off; or
- (j) Except to the extent that provision is made for fixtures in section 490:9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or
- (k) To a transfer in whole or in part of any claim arising out of tort; or

9. By amending section 490:9-105 to read:

**“Sec. 490:9-105 Definitions and index of definitions.** (1) In this Article unless the context otherwise requires:

- (a) “Account debtor” means the person who is obligated on an account, chattel paper or general intangible;
- (b) “Chattel paper” means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;
- (c) “Collateral” means the property subject to a security interest, and includes accounts and chattel paper which have been sold;
- (d) “Debtor” means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term “debtor” means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;
- (e) “Deposit account” means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit;
- (f) “Document” means document of title as defined in the general

definitions of Article 1 (section 490:1-201), and a receipt of the kind described in subsection (2) of section 490:7-201;

- (g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;
- (h) "Filing" means recording;
- (i) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (section 490:9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;
- (j) "Instrument" means a negotiable instrument (defined in section 490:3-104), or a security (defined in section 490:8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course or business transferred by delivery with any necessary indorsement or assignment;
- (k) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;
- (l) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event not within his control has relieved or may relieve him from his obligation;
- (m) "Security agreement" means an agreement which creates or provides for a security interest;
- (n) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;
- (o) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(2) Other definitions applying to this Article and the sections in which they appear are:

- "Account". Section 490:9-106.
- "Attach". Section 490:9-203.
- "Construction mortgage". Section 490:9-313 (1) (c).
- "Consumer goods". Section 490:9-109 (1).
- "Equipment". Section 490:9-109 (2).
- "Farm products". Section 490:9-109 (3).
- "Fixture". Section 490:9-313.
- "Fixture filing". Section 490:9-313.
- "General intangibles". Section 490:9-106.

"Inventory". Section 490:9-109 (4).

"Lien creditor". Section 490:9-301 (3).

"Proceeds". Section 490:9-306 (1).

"Purchase money security interest". Section 490:9-107.

"United States". Section 490:9-103.

(3) The following definitions in other Articles apply to this Article:

"Check". Section 490:3-104.

"Contract for sale". Section 490:2-106.

"Holder in due course". Section 490:3-302.

"Note". Section 490:3-104.

"Sale". Section 490:2-106.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article."

10. By amending section 490:9-106 to read:

**"Sec. 490:9-106 Definitions: "Account"; "general intangibles".** "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, and money."

11. By adding a new section to read:

**"Sec. 490:9-114 Consignment.**(1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this Article by paragraph (3) (c) of section 490:2-326 has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee, and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if

- (a) The consignor complies with the filing provision of the Article on Sales with respect to consignments (paragraph (3) (c) of section 490:2-326) before the consignee received possession of the goods; and
- (b) The consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and
- (c) The holder of the security interest receives the notification within five years before the consignee receives possession of the goods; and
- (d) The notification states that the consignor expects to deliver goods on consignment to the consignee, describing the goods by item or type.

(2) In the case of a consignment which is not a security interest and in which the requirements of the preceding subsection have not been met, a person who delivers goods to another is subordinate to a person who would have a perfected security interest in the goods if they were the property of the debtor."

12. By amending section 490:9-203 to read:

**"Sec. 490:9-203 Attachment and enforceability of security interest; proceeds, formal requisites.**(1) Subject to the provisions of section 490:4-208 on the security interest of a collecting bank and section 490:9-113 on a security in-

terest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless

- (a) The collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and
- (b) Value has been given; and
- (c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by section 490:9-306.

(4) A transaction, although subject to this Article, is also subject to chapter 408 (industrial loan act), chapter 409 (small loan act) and chapter 476 (retail installment sales act), and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein."

13. By amending section 490:9-204 to read:

**"Sec. 490:9-204 After-acquired property; future advances.** (1) Except as provided in subsection (2), a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

(2) No security interest attaches under an after-acquired property clause to consumer goods other than accessions (section 490:9-314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances of value are given pursuant to commitment (subsection (1) of section 490:9-105)."

14. By amending section 490:9-205 to read:

**"Sec. 490:9-205 Use or disposition of collateral without accounting permissible.** A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee."

15. By amending section 490:9-301 to read:

**"Sec. 490:9-301 Persons who take priority over unperfected security in-**

**terests; rights of "lien creditor".** (1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

- (a) Persons entitled to priority under section 490:9-312;
- (b) A person who becomes a lien creditor before the security interest is perfected;
- (c) In the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business or is a buyer of farm products in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;
- (d) In the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within ten days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien."

16. By amending section 490:9-302 to read:

**"Sec. 490:9-302 When filing is required to perfect security interest; security interests to which filing provisions of this article do not apply.** (1) A financing statement must be filed to perfect all security interests except the following:

- (a) A security interest in collateral in possession of the secured party under section 490:9-305;
- (b) A security interest temporarily perfected in instruments or documents without delivery under section 490:9-304 or in proceeds for a ten-day period under section 490:9-306;
- (c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;
- (d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 490:9-313;
- (e) An assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the

outstanding accounts of the assignor;

- (f) A security interest of a collecting bank (section 490:4-208) or arising under the Article on Sales (see section 490:9-113) or covered in subsection (3) of this section.
- (g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.
- (h) A security interest in a deposit account. Such a security interest is perfected:

- (1) As to a deposit account maintained with the secured party, when the security agreement is executed.
- (2) As to a deposit account maintained with any organization other than the secured party, when notice thereof is given in writing to the organization with whom the deposit account is maintained.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this Article is not necessary or effective to perfect a security interest in property subject to

- (a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this Article for filing of the security interest; or
- (b) Chapter 286 of this State, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article (Part 4) apply to a security interest in that collateral created by him as debtor; or
- (c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of section 490:9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this Article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in section 490:9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this Article.

(5) A security interest in a vehicle required to be registered under chapter 286 which is not inventory may be perfected only by registration thereunder.

17. By amending section 490:9-304 to read:

**“Sec. 490:9-304 Perfection of security interest in instruments, documents, and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession.** (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than instruments which constitute a part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2)



and (3) of section 490:9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

- (a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subsection (3) of section 490:9-312; or
- (b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the twenty-one day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article."

18. By amending section 490:9-305 to read:

**"Sec. 490:9-305 When possession by secured party perfects security interest without filing.** A security interest in letters of credit and advices of credit (subsection (2) (a) of section 490:5-116), goods, instruments, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party."

19. By amending section 490:9-306 to read:

**"Sec. 490:9-306 "Proceeds"; secured party's rights on disposition of collateral.** (1) "Proceeds" include whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is

payable to a person other than a party to the security agreement. Money, checks, deposit accounts, and the like are "cash proceeds." All other proceeds are "non-cash proceeds."

(2) Except where this Article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

- (a) A filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds; or
- (b) A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; or
- (c) The security interest in the proceeds is perfected before the expiration of the ten day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this Article for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds:

- (a) In identifiable non cash proceeds and in separate deposit accounts containing only proceeds;
- (b) In identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings;
- (c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings; and
- (d) In all cash and deposit accounts of the debtor, in which proceeds have been commingled with other funds, but the perfected security interest under this paragraph (d) is
  - (i) Subject to any right of set-off; and
  - (ii) Limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c) of this subsection (4).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

- (a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.
  - (b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under section 490:9-308.
  - (c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).
  - (d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods."
20. By amending section 490:9-307 to read:

**"Sec. 490:9-307 Protection of buyers of goods.** (1) A buyer in ordinary course of business (subsection (9) of section 490:1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(3) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five day period."

21. By amending section 490:9-308 to read:

**"Sec. 490:9-308 Purchase of chattel paper and instruments.** A purchaser of chattel paper or an instrument who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in the chattel paper or instrument

- (a) Which is perfected under section 490:9-304 (permissive filing and temporary perfection) or under section 490:9-306 (perfection as to proceeds), if he acts without knowledge that the specific paper or instru-

- ment is subject to a security interest; or
  - (b) Which is claimed merely as proceeds of inventory subject to a security interest (section 490:9-306) even though he knows that the specific paper or instrument is subject to the security interest.”
22. By amending section 490:9-312 to read:

**“Sec. 490:9-312 Priorities among conflicting security interests in the same collateral.** (1) The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: section 490:4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 490:9-103 on security interests related to other jurisdictions; section 490:9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

- (a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory; and
- (b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of section 490:9-304); and
- (c) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and
- (d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

- (a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.
- (b) So long as conflicting security interests are unperfected, the first to attach has priority.
- (6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.
- (7) If future advances are made while a security interest is perfected by filing or the taking of possession, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made."

23. By amending section 490:9-313 to read:

**"Sec. 490:9-313 Priority of security interests in fixtures.** (1) In this section and in the provisions of Part 4 of this Article referring to fixture filing, unless the context otherwise requires

- (a) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law.
- (b) A "fixture filing" is the filing in accordance with the provisions of section 490:9-401(1) of a financing statement covering goods which are or are to become fixtures and which conforms to the requirements of subsection (5) of section 490:9-402.
- (c) A mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.
- (2) A security interest under this Article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this Article in ordinary building materials incorporated into an improvement on land.
- (3) This Article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.
- (4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where
  - (a) The security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within ten days thereafter, and the debtor has an interest of record in the real estate, or is in possession of the real estate; or
  - (b) The security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priori-

- ty over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate, or is in possession of the real estate; or
- (c) The fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this Article; or
  - (d) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article.
  - (5) A security interest in fixtures, whether or not perfected has priority over the conflicting interest of an encumbrancer or owner of the real estate where
    - (a) The encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or
    - (b) The debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.
  - (6) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4) and (5), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.
  - (7) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.
  - (8) When the secured party has priority over all owners and encumbrancers of the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation."

24. By amending section 490:9-318 to read:

**"Sec. 490:9-318 Defenses against assignee; modification of contract after notification of assignment; term prohibiting assignment ineffective; identification and proof of assignment.** (1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in section 490:9-206 the rights of an assignee are subject to

- (a) All the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and
- (b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment or a part thereof under an assigned contract has not been fully earned by performance, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the amount due or to become due has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor is ineffective if it prohibits assignment of an account or prohibits creation of a security interest in a general intangible for money due or to become due or requires the account debtor's consent to such assignment or security interest."

25. By amending section 490:9-402 to read:

**"Sec. 490:9-402 Formal requisites of financing statement; amendments; mortgage as financing statement.** (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned and the name of the record owner or record lessee thereof. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 490:9-103, or when the financing statement is filed as a fixture filing (section 490:9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this State.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this State, or when the debtor's location is changed to this State. Such a financing statement must state that the collateral was brought into this State or that the debtor's location was

- changed to this State under such circumstances; or
  - (b) Proceeds under section 490:9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or
  - (c) Collateral as to which the filing has lapsed; or
  - (d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).
- (3) A form substantially as follows is sufficient to comply with subsection (1):
- Name of debtor (or assignor) .....
  - Address .....
  - Name of secured party (or assignee) .....
  - Address .....
  - 1. This financing statement covers the following types (or items) of property:
    - (Describe) .....
  - 2. (If collateral is crops) The above described crops are growing or are to be grown on:
    - (Describe Real Estate) .....
    - (Record owner or record lessee) .....
  - 3. (If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:
    - (Describe Real Estate) .....
    - (Record owner or record lessee) .....
  - 4. (If products of collateral are claimed) Products of the collateral are also covered.
    - (use) .....
    - whichever) Signature of Debtor (or Assignor)
    - is)
    - applicable) .....
    - Signature of Secured Party (or Assignee)

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term “financing statement” means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 490:9-103, or a financing statement filed as a fixture filing (section 490: 9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must (unless it is a fixture filing under section 490:9-313) recite that it is to be filed in the real estate records, and the financing statement must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner or record lessee.



(6) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(7) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading."

26. By amending section 490:9-403 to read:

**"Sec. 490:9-403 What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.** (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by book and page number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2), of section 490:9-405, including payment of the required fee. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so

arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) A filing officer shall record and index each statement in the manner provided in chapter 502. For the purpose of such indexing, each of the debtor (or assignor) and the record owner or record lessee of any real estate described in the financing statement (where the collateral is crops or goods which are or are to become fixtures) shall be considered a grantor with respect to the financing statement and the secured party (or assignee) shall be considered a grantee with respect to the financing statement.

(5) The fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be \$2 per page.

(6) If the debtor is a transmitting utility (subsection (5) of section 9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under section 9-408 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

27. By amending section 490:9-404 to read:

**"Sec. 490:9-404 Termination statement.** (1) If a financing statement covering consumer goods is filed on or after July 1, 1978, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by book and page number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by book and page number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying

with subsection (2) of section 490:9-405, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) The filing officer, on presentation of such a termination statement, must record and index it in the manner provided in chapter 502.

(3) The fee for filing and indexing a termination statement shall be \$2 per page."

28. By amending section 490:9-405 to read:

**"Sec. 490:9-405 Assignment of security interest; duties of filing officer; fees.**

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such financing statement the filing officer shall process the same as provided in section 490:9-403(4). The fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$2 per page.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record. Such statement shall set forth the name of the secured party of record and the debtor, the name and address of the assignee, the date of filing of the financing statement and the book and page number and shall contain a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. The filing officer, upon presentation of such a separate statement, shall record and index such separate statement in the manner provided in chapter 502. The fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$2 per page.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record."

29. By amending section 490:9-406 to read:

**"Sec. 490:9-406 Release of collateral; duties of filing officer; fees.** A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the book and page number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 490:9-405, including payment of the required fee. The filing officer, upon presentation of such statement of release, shall record and index such statement in the manner provided in chapter 502. The fee for filing and noting such a statement of release shall be \$2 per page."

30. By amending section 490:9-501 to read:

**“Sec. 490:9-501 Default; procedure when security agreement covers both real and personal property.** (1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this Part and except as limited by subsection (3) those provided in the security agreement. He may reduce his claim to judgment, foreclosure or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in section 490:9-207. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in this Part, those provided in the security agreement and those provided in section 490:9-207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (3) of section 490:9-504 and section 490:9-505) and with respect to redemption of collateral (section 490:9-506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

- (a) Subsection (2) of section 490:9-502 and subsection (2) of section 490:9-504 insofar as they require accounting for surplus proceeds of collateral;
- (b) Subsection (3) of section 490:9-504 and subsection (1) of section 490:9-505 which deals with disposition of collateral;
- (c) Subsection (2) of section 490:9-505 which deals with acceptance of collateral as discharge of obligation;
- (d) Section 490:9-506 which deals with redemption of collateral; and
- (e) Subsection (1) of section 490:9-507 which deals with the secured party's liability for failure to comply with this Part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case provisions of this Part do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.”

31. By amending section 490:9-504 to read:

**“Sec. 490:9-504 Secured party's right to dispose of collateral after default; effect of disposition.** (1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to

the Article on Sales (Article 2). The proceeds of disposition shall be applied in the order following to

- (a) The reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;
- (b) The satisfaction of indebtedness secured by the security interest under which the disposition is made;
- (c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of this interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, if he has not signed after default a statement renouncing or modifying his right to notification of sale. In the case of consumer goods no other notification need be sent. In other cases notification shall be sent to any other secured party from whom the secured party has received (before sending his notification to the debtor or before the debtor's renunciation of his rights) written notice of a claim of an interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part or of any judicial proceedings

- (a) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or
- (b) In any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorse-

ment, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this Article.”

32. By amending section 490:9-505 to read:

**“Sec. 490:9-505 Compulsory disposition of collateral; acceptance of the collateral as discharge of obligation.** (1) If the debtor has paid sixty per cent of the cash price in the case of a purchase money security interest in consumer goods or sixty per cent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this Part a secured party who has taken possession of collateral must dispose of it under section 490:9-504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under section 490:9-507(1) on secured party’s liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor if he has not signed after default a statement renouncing or modifying his rights under this subsection. In the case of consumer goods no other notice need be given. In other cases notice shall be sent to any other secured party from whom the secured party has received (before sending his notice to the debtor or before the debtor’s renunciation of his rights) written notice of a claim of an interest in the collateral. If the secured party receives objection in writing from a person entitled to receive notification within twenty-one days after the notice was sent, the secured party must dispose of the collateral under section 490:9-504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor’s obligation.”

34.† By adding a new Article to read:

## **“ARTICLE 11 EFFECTIVE DATE AND TRANSITION PROVISIONS**

**Sec. 490:11-101 Effective date.** This Act shall become effective at 12:01 A.M. on July 1, 1979.

**Sec. 490:11-102 Preservation of old transition provision.** The provisions of chapter 490, effective on January 1, 1967, herein referred to as “old U.C.C.” shall continue to apply to the amendments herein provided herein referred to as “new U.C.C.” and for this purpose the old U.C.C. and new U.C.C. shall be considered one continuous statute.

**Sec. 490:11-103 Transition to new U.C.C.—General Rule.** Transactions validly entered into after January 1, 1967 and before July 1, 1979, and which were subject to the provisions of old U.C.C. and which would be subject to this Act as amended if they had been entered into after the effective date of July 1, 1979 and the rights, duties and interests flowing from such transactions remain valid after

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†There is no “33” in law as enacted.

the latter date and may be terminated, completed, consummated or enforced as required or permitted by the new U.C.C. Security interests arising out of such transactions which are perfected when the new U.C.C. becomes effective shall remain perfected until they lapse as provided in the new U.C.C., and may be continued as permitted by new U.C.C., except as stated in section 490:11-105.

**Sec. 490:11-104 Transition provision on change of requirement of filing.** A security interest for the perfection of which filing or the taking of possession as required under old U.C.C. and which attached prior to the effective date of July 1, 1979 but was not perfected shall be deemed perfected on the effective date of the new U.C.C. if the new U.C.C. permits perfection without filing or authorizes filing in the office or offices where a prior effective filing was made.

**Sec. 490:11-105 Transition provision on change of place of filing.** (1) A financing statement or continuation statement filed prior to July 1, 1979 which shall not have lapsed prior to July 1, 1979 shall remain effective for the period provided in the old U.C.C., but not less than five years after the filing.

(2) With respect to any collateral acquired by the debtor subsequent to the effective date of July 1, 1979, any effective financing statement or continuation statement described in this section shall apply only if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under the new U.C.C.

(3) The effectiveness of any financing statement or continuation statement filed prior to July 1, 1979 may be continued by a continuation statement as permitted by the new U.C.C., except that if the new U.C.C. requires a filing in an office where there was no previous financing statement, a new financing statement conforming to section 490:11-106 shall be filed in that office.

(4) If the record of a mortgage of real estate would have been effective as a fixture filing of goods described therein if the new U.C.C. had been in effect on the date of recording the mortgage, the mortgage shall be deemed effective as a fixture filing as to such goods under subsection (6) of section 490:9-402 of the new U.C.C. on the effective date of July 1, 1979.

**Sec. 490:11-106 Required refilings.** (1) If a security interest is perfected or has priority when this Act takes effect as to all persons or as to certain persons without any provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(4)† A financing statement may be filed within six months before the perfection of a security interest would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. It must identify the security agreement, statement or notice (however denominated in any statute or other law repealed or modified by this Act), state the office where and the date when the last filing, refiling or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, of recording and further state that the security agreement, statement or notice, however denominated, in another filing office under the U.C.C. or under any statute or other law repealed

†There are no subsections "(2)" and "(3)" in law as enacted.

or modified by this Act is still effective. Section 490:9-401 and section 490:9-103 determine the proper place to file such a financing statement. Except as specified in this subsection, the provisions of section 490:9-403(3) for continuation statements apply to such a financing statement.

**Sec. 490:11-107 Transition provisions as to priorities.** Except as otherwise provided in Article 11, old U.C.C. shall apply to any question of priority if the positions of the parties were fixed prior to the effective date of July 1, 1979. In other cases questions of priority shall be determined by the new U.C.C.

**Sec. 490:11-108 Presumption that rule of law continues unchanged.** Unless a change in law has clearly been made, the provisions of the new U.C.C. shall be deemed declaratory of the meaning of the old U.C.C.\*

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect on July 1, 1979.

(Approved June 1, 1978.)

ACT 156

H.B. NO. 1881-78

A Bill for an Act Relating to Suits by and Against the State and Conferring Jurisdiction Upon District Courts in Said Suits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 661-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 661-1 Jurisdiction.** The several circuit courts and, except as otherwise provided by statute or rule, the several district courts shall, subject to appeal as provided by law, have original jurisdiction to hear and determine the following matters, and shall determine all questions of fact involved without the intervention of a jury.

(1) All claims against the State founded upon any statute of the State; or upon any regulation of an executive department; or upon any contract, expressed or implied, with the State, and all claims which may be referred to any such court by the legislature; provided, that no action shall be maintained, nor shall any process issue against the State, based on any contract or any act of any state officer which the officer is not authorized to make or do by the laws of the State, nor upon any other cause of action than as herein set forth.

(2) All counterclaims, whether liquidated or unliquidated, or other demands whatsoever on the part of the State against any person making claim against the State under this chapter."

SECTION 2. Section 662-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 662-3 Jurisdiction.** The circuit courts of the State and, except as

\*Edited accordingly.



otherwise provided by statute or rule, the district courts shall have original jurisdiction of all tort actions on claims against the State, for money damages, accruing on and after July 1, 1957 for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the State while acting within the scope of his office or employment.”

SECTION 3. Section 662-6, Hawaii Revised Statutes, is amended to read:

“**Sec. 662-6 Pleadings, trial and appeal.** The Hawaii Rules of Civil Procedure and the District Court Rules of Civil Procedure as applicable shall be followed in any action under this chapter. A certified copy of all pleadings shall be duly served on the attorney general.

Sections 661-2 and 661-9 shall apply to actions under this chapter.”

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall become effective upon its approval.

(Approved June 1, 1978.)

ACT 157

H.B. NO. 1882-78

A Bill for an Act Relating to Persons Eligible for Appointment as Guardian of the Person of Minors and Incapacitated Persons.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:5-204, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 560:5-204 Court appointment of guardian of the person of minor; conditions for appointment; letters; priority of testamentary nominee.** The family court may appoint any competent person whose appointment would be in the best interest of the minor as a guardian of the person for an unmarried minor. The appointment shall be evidenced by letters of guardianship. Such guardian may be nominated by the will of the minor’s parent, and the family court shall give preference to any such nominee. The family court may appoint someone other than the testamentary nominee upon a showing of cause.”

SECTION 2. Section 560:5-206, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 560:5-206 Court appointment of guardian of the person of minor; qualifications; priority of minor’s nominee.** Subject to the provisions of section 5-204, the family court may appoint as guardian of the person of a minor any competent person whose appointment would be in the best interests of the minor, provided, however, if the minor is fourteen years of age or older, the minor may nominate any competent person and the minor’s nominee shall have priority unless the family court finds the appointment contrary to the best interest of the minor.”

\*Edited accordingly.

SECTION 3. Section 560:5-304, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:5-304 Finding; order of appointment.** The family court may appoint any competent person, whose appointment would be in the best interest of the alleged incapacitated person, as a guardian of the person as requested if it is satisfied that the person for whom a guardian is sought is incapacitated and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the person of the incapacitated person. The order of appointment may limit or otherwise modify the power of the guardian of the person or may specify areas in which the ward shall retain the power to make and carry out decisions concerning his person. Alternatively, the family court may dismiss the proceeding or enter any other appropriate order."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall become effective upon its approval.

(Approved June 1, 1978.)

ACT 158

H.B. NO. 1920-78

A Bill for an Act Relating to Boards and Commissions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 92-17 Consumer complaints; procedures and remedies.** (a) All boards as defined by section 92-2(1) established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint or upon receipt of an investigation report generated by the board on its own motion which establishes an alleged violation of any provision of law or rule that is within its jurisdiction, the board shall notify the licensee or person regulated of the charge against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally. If the board finds that the charge constitutes a violation, the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding the money paid as fees for services;
- (2) Correcting the work done in providing services;
- (3) Revocation of the licensee's permit or license;
- (4) Suspension of the licensee's permit or license; and
- (5) Any other reasonable means to secure relief as determined by the board.

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\*Edited accordingly.

(c) The failure or refusal of the licensee to comply with any board order, including an order of license suspension, shall also constitute grounds for further disciplinary action, including a suspension or revocation of license, imposition of which shall be subject to chapter 91 and the procedural rules of the board. The board may also apply to any circuit court for injunctive relief to compel compliance with the board's order. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

(d) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

(e) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to the provisions of chapter 658. In the event of any such agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b) of this section; provided that any such order or dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen any such proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b) of this section.

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for such purpose by the department of regulatory agencies."

SECTION 2. Sec. -4 of Section 2, Act 70, Session Laws of Hawaii 1977, is amended to read as follows:

"**Sec. -4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1978:

- (1) Chapter 448A, Hawaii Revised Statutes (Escort Agencies)
- (2) Chapter 455, Hawaii Revised Statutes (Board of Examiners in Naturopathy)
- (3) Chapter 462, Hawaii Revised Statutes (Board of Photography)
- (4) Chapter 463E, Hawaii Revised Statutes (Podiatry)

(b) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 437, Hawaii Revised Statutes (Motor Vehicle Industry Licensing Board)
- (2) Chapter 440, Hawaii Revised Statutes (Boxing Commission)
- (3) Chapter 443, Hawaii Revised Statutes (Collection Agencies Board)
- (4) Chapter 446D, Hawaii Revised Statutes (Degree Granting Institutions)
- (5) Chapter 448H, Hawaii Revised Statutes (Elevator Mechanics Licensing Board)

(6) Chapter 467A, Hawaii Revised Statutes (Rental Agencies)

(7) Chapter 452, Hawaii Revised Statutes (Board of Massage)

(c) The following chapters are hereby repealed effective December 31, 1980:

(1) Chapter 436, Hawaii Revised Statutes (Board of Examiners for Abstract Makers)

(2) Chapter 439, Hawaii Revised Statutes (Board of Cosmetology)

(3) Chapter 447, Hawaii Revised Statutes (Dental Hygienists)

(4) Chapter 463, Hawaii Revised Statutes (Board of Private Detectives and Guards)

(5) Chapter 468J, Hawaii Revised Statutes (Travel Agencies)

(6) Chapter 471, Hawaii Revised Statutes (Board of Veterinary Examiners)

(7) Chapter 438, Hawaii Revised Statutes (Board of Barbers)

(d) The following chapters are hereby repealed effective December 31, 1981:

(1) Chapter 441, Hawaii Revised Statutes (Cemetery Board)

(2) Chapter 451A, Hawaii Revised Statutes (Board of Hearing Aid Dealers and Fitters)

(3) Chapter 457B, Hawaii Revised Statutes (Board of Examiners of Nursing Home Administrators)

(4) Chapter 458, Hawaii Revised Statutes (Board of Dispensing Opticians)

(5) Chapter 459, Hawaii Revised Statutes (Board of Examiners in Optometry)

(6) Chapter 465, Hawaii Revised Statutes (Board of Certification for Practicing Psychologists)

(7) Chapter 468E, Hawaii Revised Statutes (Board of Speech Pathology and Audiology)

(e) The following chapters are hereby repealed effective December 31, 1982:

(1) Chapter 436D, Hawaii Revised Statutes (Board of Acupuncture)

(2) Chapter 437B, Hawaii Revised Statutes (Motor Vehicle Repair Industry Board)

(3) Chapter 442, Hawaii Revised Statutes (Board of Chiropractic Examiners)

(4) Chapter 448E, Hawaii Revised Statutes (Board of Electricians and Plumbers)

(5) Chapter 464, Hawaii Revised Statutes (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)

(6) Chapter 466, Hawaii Revised Statutes (Board of Public Accountancy)

(7) Chapter 467, Hawaii Revised Statutes (Real Estate Commission)

(f) The following chapters are hereby repealed effective December 31, 1983:

(1) Chapter 444, Hawaii Revised Statutes (Contractors License Board)

(2) Chapter 448, Hawaii Revised Statutes (Board of Dental Examiners)

- (3) Chapter 453, Hawaii Revised Statutes (Board of Medical Examiners)
- (4) Chapter 457, Hawaii Revised Statutes (Board of Nursing)
- (5) Chapter 460, Hawaii Revised Statutes (Board of Osteopathic Examiners)
- (6) Chapter 461, Hawaii Revised Statutes (Board of Pharmacy)"

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 159

H.B. NO. 2102-78

A Bill for an Act Relating to Motor Vehicle Taxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purposes.** Chapter 249, Hawaii Revised Statutes, was amended by Act 188, Session Laws of Hawaii 1976 to establish a state vehicle registration fee. This chapter was again amended by Act 195, Session Laws of Hawaii 1977, to establish a state motor vehicle weight tax.

Chapter 286, Hawaii Revised Statutes, was amended by Act 20, First Special Session Laws of Hawaii 1977, to establish a gross weight fee for motor carrier vehicles to defray the administrative costs of the motor carrier safety program.

The purpose of this bill is to provide for improved administrative procedures, eliminate inequities, and provide for the imposition of penalties in relation to the collection of the state vehicle tax and motor carrier gross weight fees.

SECTION 2. Section 249-31, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-31 State registration fee.** All vehicles and motor vehicles in the State as defined in section 249-1, including antique motor vehicles, except as otherwise provided in sections 249-3 through 249-6 shall be subject to a \$1 vehicle registration fee. The fee shall become due and payable on January 1, and shall be paid before April 1 in each year together with all other taxes and fees levied by this chapter. The respective counties shall collect this fee together with the vehicle registration tax collected for the county and shall transfer the moneys collected under this section to the State to be paid into the state highway fund."

SECTION 3. Section 249-33, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-33 State vehicle weight tax, exemptions.** All vehicles and motor

\*Edited accordingly.

vehicles in the State as defined in section 249-1, including antique motor vehicles, except as otherwise provided in section 249-3 through 249-6, in addition to all other fees and taxes levied by this chapter, shall be subject to an annual state vehicle weight tax. The tax shall be levied by the county director of finance at the rate of 0.45 cents a pound according to the net weight of each vehicle as the "net weight" is defined in section 249-1 up to 6,000 pounds net weight; vehicles over 6,000 pounds and up to 9,000 pounds net weight shall be taxed \$27; vehicles over 9,000 pounds and up to 14,000 pounds net weight shall be taxed \$31.50; vehicles over 14,000 pounds net weight shall be taxed at a flat rate of \$36; provided that in no case shall the tax assessed and collected be less than \$2 nor more than a maximum of \$36.

The tax shall become due and payable on January 1 and shall be paid before April 1 in each year together with all other taxes and fees levied by this chapter. The tax shall be paid by the owner of each vehicle to the director of finance of the county in which the vehicle is registered and shall be collected by the director of finance of such county together with all other fees and taxes levied by this chapter from the owner of each vehicle and motor vehicle registered in the county.

By the fifteenth day of the month following the month in which taxes under this section are collected, the director of finance of each county shall transmit the taxes collected to the state director of finance for deposit into the state highway fund.

The exemptions provided by sections 249-3 to 249-6 shall apply to this section. The provisions for refunds, and taxes for fraction of years for vehicles removed from or brought into the State and for junked vehicles, contained in sections 249-3 and 249-5 shall apply to the tax levied by this section.

If it is shown to the satisfaction of the department of transportation of the State, based upon proper records and from such other evidence as the department of transportation may require, that any vehicle with a net vehicle weight of 6,000 pounds or over is used for agricultural purposes the owner thereof may obtain a refund of all taxes thereon imposed by this section. The department of transportation shall prescribe rules and regulations to administer such refunds.

The counties shall be reimbursed the incremental costs incurred in the collection and administration of taxes and fees imposed under section 249-31 and 249-33; the amount of reimbursement shall be determined by the director of transportation."

SECTION 4. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 249- Delinquent penalties; seizure and sale for tax and fee.** Any tax or fee imposed under section 249-33 for any year and not paid before April 1 of such year shall be subject to the penalties provided in section 249-10."

SECTION 5. Section 286-215, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-215 Fees and charges.** The director shall establish fair and reasonable fees for applications for approval of plans and specifications for construction or modification of a motor vehicle or class of motor vehicles in Hawaii

which will at any time be operated upon the highways as provided in section 286-202(12)."

SECTION 6. Chapter 248, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 248- State Highway fund to defray expenses of motor vehicle safety office.** The department of transportation may expend funds from the state highway fund to defray the cost of administration and operation of the motor vehicle safety office."

SECTION 7. Only for the calendar year 1978, each motor carrier, having paid both the gross weight fee under section 286-215 and the state vehicle weight tax under section 249-33 for a motor carrier vehicle, shall be entitled to a refund of the gross weight fee paid.

In addition, only for calendar year 1978, if it is shown to the satisfaction of the department of transportation of the State, based upon proper records and from such other evidence as the department of transportation may require, that any vehicle with a net vehicle weight of 6,000 pounds or over is used for agricultural purposes the owner thereof may obtain a refund of all gross weight fee.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 9. This Act shall take effect upon its approval; provided that SECTION 2 and SECTION 5 of this Act shall take effect on January 1, 1979; and provided further that the State Vehicle Weight Tax on vehicles other than motor vehicles shall take effect on January 1, 1979.

(Approved June 1, 1978.)

ACT 160

H.B. NO. 2123-78

A Bill for an Act Relating to Community Physician Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to increase the subsidy provided to physicians under the Community Physician Program in order to update the sum to an adequate level and thus to satisfy the critical health needs of the isolated areas of the State.

SECTION 2. Section 362-42, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 362-42 Community physician contracts.** With the approval of the governor, the department of health may enter into agreements with physicians licensed to practice medicine and surgery in the State for the purpose of providing

\*Edited accordingly.

## ACT 161

medical services to multi-problem neighborhoods, and any other community in the State determined to be in need of subsidized resident physicians as provided in this part, such agreements to provide for the following:

- (1) A guarantee to each physician of not more than \$45,000 gross income from the practice of medicine and surgery, including any subsidy provided by this part, and which shall be subject to taxation to the extent provided for in chapters 235 and 237;
- (2) That the State pay annually to the physician a subsidy to the extent that his annual gross income from the practice of medicine and surgery does not amount to more than \$45,000;
- (3) That the physician take up residency and be a resident of the community; and
- (4) That the amount of income guaranteed by this section shall be reviewed annually by the department of health.

The department of health with the approval of the governor may contract with any number of physicians determined to be required in a community, subject to the provisions of this part."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

## ACT 161

H.B. NO. 2293-78

A Bill for an Act Relating to the Office of Environmental Quality Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 341-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 341-4 Powers and duties of the director.** (a) The director shall have such powers delegated by the governor as are necessary to coordinate and, when requested by the governor, to direct pursuant to chapter 91 all state governmental agencies in matters concerning environmental quality.

- (b) To further the objective of subsection (a), the director shall:
- (1) Direct the attention of the university community and the residents of the State in general to ecological and environmental problems through the center and the council, respectively.
  - (2) Conduct research or arrange for the conduct of research through contractual relations with the center, state agencies, or other persons with competence in the field of ecology and environmental quality.
  - (3) Encourage public acceptance of proposed legislative and ad-

\*Edited accordingly.



ministrative actions concerning ecology and environmental quality, and receive notice of any private or public complaints concerning ecology and environmental quality through the council.

- (4) Recommend programs for long-range implementation of environmental quality control.
- (5) Recommend such legislation as is necessary to preserve the environmental quality of the State.
- (6) Initiate public educational programs.
- (7) Offer advice and assistance to private industry, governmental agencies, or other persons upon request."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 162

H.B. NO. 2385-78

A Bill for an Act Relating to the Board of Examiners in Naturopathy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sec. -4 of Section 2, Act 70, Session Laws of Hawaii 1977, is amended to read as follows:

"Sec. -4 **Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1978:

- (1) Chapter 438, Hawaii Revised Statutes (Board of Barbers)
- (2) Chapter 448A, Hawaii Revised Statutes (Escort Agencies)
- (3) Chapter 452, Hawaii Revised Statutes (Board of Massage)
- (4) Chapter 462, Hawaii Revised Statutes (Board of Photography)
- (5) Chapter 463E, Hawaii Revised Statutes (Podiatry)

(b) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 437, Hawaii Revised Statutes (Motor Vehicle Industry Licensing Board)
- (2) Chapter 440, Hawaii Revised Statutes (Boxing Commission)
- (3) Chapter 443, Hawaii Revised Statutes (Collection Agencies Board)
- (4) Chapter 446D, Hawaii Revised Statutes (Degree Granting Institutions)
- (5) Chapter 448H, Hawaii Revised Statutes (Elevator Mechanics Licensing Board)

- (6) Chapter 467A, Hawaii Revised Statutes (Rental Agencies)

(c) The following chapters are hereby repealed effective December 31, 1980:

\*Edited accordingly.

- (1) Chapter 436, Hawaii Revised Statutes (Board of Examiners for Abstract Makers)
- (2) Chapter 439, Hawaii Revised Statutes (Board of Cosmetology)
- (3) Chapter 447, Hawaii Revised Statutes (Dental Hygienists)
- (4) Chapter 463, Hawaii Revised Statutes (Board of Private Detectives and Guards)
- (5) Chapter 468J, Hawaii Revised Statutes (Travel Agencies)
- (6) Chapter 471, Hawaii Revised Statutes (Board of Veterinary Examiners)
- (d) The following chapters are hereby repealed effective December 31,

1981:

- (1) Chapter 441, Hawaii Revised Statutes (Cemetery Board)
- (2) Chapter 451A, Hawaii Revised Statutes (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B, Hawaii Revised Statutes (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 458, Hawaii Revised Statutes (Board of Dispensing Opticians)
- (5) Chapter 459, Hawaii Revised Statutes (Board of Examiners in Optometry)
- (6) Chapter 465, Hawaii Revised Statutes (Board of Certification for Practicing Psychologists)
- (7) Chapter 468E, Hawaii Revised Statutes (Board of Speech Pathology and Audiology)

- (e) The following chapters are hereby repealed effective December 31,

1982:

- (1) Chapter 436D, Hawaii Revised Statutes (Board of Acupuncture)
- (2) Chapter 437B, Hawaii Revised Statutes (Motor Vehicle Repair Industry Board)
- (3) Chapter 442, Hawaii Revised Statutes (Board of Chiropractic Examiners)
- (4) Chapter 448E, Hawaii Revised Statutes (Board of Electricians and Plumbers)
- (5) Chapter 464, Hawaii Revised Statutes (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466, Hawaii Revised Statutes (Board of Public Accountancy)
- (7) Chapter 467, Hawaii Revised Statutes (Real Estate Commission)

- (f) The following chapters are hereby repealed effective December 31,

1983:

- (1) Chapter 444, Hawaii Revised Statutes (Contractors License Board)
- (2) Chapter 448, Hawaii Revised Statutes (Board of Dental Examiners)
- (3) Chapter 453, Hawaii Revised Statutes (Board of Medical Examiners)
- (4) Chapter 457, Hawaii Revised Statutes (Board of Nursing)
- (5) Chapter 460, Hawaii Revised Statutes (Board of Osteopathic Examiners)
- (6) Chapter 461, Hawaii Revised Statutes (Board of Pharmacy)
- (g) The following chapters are hereby repealed effective December 31,

1984:

- (1) Chapter 455, Hawaii Revised Statutes (Board of Examiners in Naturopathy)."

SECTION 2. Section 455-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 455-6 Powers and authority of the board.** The state board of examiners in naturopathy may:

- (1) Adopt and use a seal to be affixed to all official acts of the board;
- (2) Revoke or suspend any license issued to any person to practice naturopathy upon any of the following causes:
  - (A) Procuring, or aiding or abetting in procuring, a criminal abortion;
  - (B) Employing any person to solicit patients for him;
  - (C) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
  - (D) Wilfully betraying a professional secret;
  - (E) Making any untruthful and improbable statement in advertising one's naturopathic practice or business;
  - (F) False, fraudulent, or deceptive advertising;
  - (G) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
  - (H) Practicing naturopathic medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
  - (I) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
  - (J) Professional misconduct or gross carelessness or manifest incapacity in the practice of naturopathy;
  - (K) Conduct or practice contrary to recognized standards of ethics of the naturopathic profession;
  - (L) Consistently utilizing medical service or treatment which is inappropriate or unnecessary.

The board may not suspend or revoke a license, however, for any of these causes unless the person accused has been given at least twenty days' notice, in writing, and a public hearing in conformity with chapter 91.

The board may compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before them and the presiding officer of the board may administer the requisite oaths.

In case any license is revoked for any of the causes named in this section, the holder thereof shall be immediately notified of the revocation, in writing, by the board. Licenses to practice naturopathy may be restored by the board.

The board shall adopt, pursuant to chapter 91 and 92, rules setting forth standards of ethics of the naturopathic profession and may adopt such other rules as are reasonably necessary to implement this chapter."

SECTION 3. Section 455-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 455-7 Examinations.** The state board of examiners in naturopathy shall conduct examinations not less than twice in each year in the following subjects: anatomy; histology and embryology; chemistry and toxicology; physiology; bacteriology; hygiene and sanitation; pathology; diagnosis or analysis, including clinical, physical, x-ray, symptomatology, dermatology, and mental diseases; naturopathic theory and practice; obstetrics and gynecology; jurisprudence; clinical practice; biochemistry; therapeutics, including physiotherapy, hydrotherapy, electrotherapy, heliotherapy, phytotherapy, orthopedics; and such other subjects as the board may require. The examination shall be conducted in writing, but it may be supplemented by oral examinations, and by demonstrations or other practical tests as the board may require. If the applicant receives a general average of seventy-five per cent he shall be considered as having passed the examination."

SECTION 4. Section 455-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 455-8 License to practice; biennial registration.** Licenses to practice naturopathy shall be issued by the board in such form as the board determines, to those who qualify according to this chapter. Naturopathy physicians licensed under this chapter shall observe and be subject to all state regulations relative to reporting births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. Every person holding a license to practice in the State shall reregister with the state board of examiners in naturopathy on or before December 31 of each odd-numbered year and shall pay a reregistration fee of \$200. The failure to so reregister and pay the reregistration fee constitutes a forfeiture of license; provided that the license shall be reinstated upon written application therefor together with payment of all delinquent fees and the sum of \$75.

SECTION 5. Section 455-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 455-9 Penalty.** Any person except a licensed naturopath who practices or attempts to practice naturopathy, or any person who buys, sells, or fraudulently obtains any diploma or license to practice naturopathy whether recorded or not, or any person who uses the title "natureopath", "naturopath", or "N.D.", or any word or title to induce the belief that he is engaged in the practice of naturopathy without complying with this chapter, or any person who violates this chapter, shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the director of the office of consumer protection on behalf of the State."

SECTION 6. The state board of examiners in naturopathy shall submit to the legislature twenty days prior to the regular session of 1979, the rules it has been mandated to adopt or in the alternative, a report of the efforts it has made

thereto.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 163

H.B. NO. 2388-78

A Bill for an Act Relating to the Practice of Podiatry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sec. -4 of Section 2, Act 70, Session Laws of Hawaii 1977, is amended to read as follows:

"Sec. -4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1978:

- (1) Chapter 438, Hawaii Revised Statutes (Board of Barbers)
- (2) Chapter 448A, Hawaii Revised Statutes (Escort Agencies)
- (3) Chapter 452, Hawaii Revised Statutes (Board of Massage)
- (4) Chapter 455, Hawaii Revised Statutes (Board of Examiners in Naturopathy)
- (5) Chapter 462, Hawaii Revised Statutes (Board of Photography)

(b) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 437, Hawaii Revised Statutes (Motor Vehicle Industry Licensing Board)
- (2) Chapter 440, Hawaii Revised Statutes (Boxing Commission)
- (3) Chapter 443, Hawaii Revised Statutes (Collection Agencies Board)
- (4) Chapter 446D, Hawaii Revised Statutes (Degree Granting Institutions)
- (5) Chapter 448H, Hawaii Revised Statutes (Elevator Mechanics Licensing Board)
- (6) Chapter 467A, Hawaii Revised Statutes (Rental Agencies)

(c) The following chapters are hereby repealed effective December 31, 1980:

- (1) Chapter 436, Hawaii Revised Statutes (Board of Examiners for Abstract Makers)
- (2) Chapter 439, Hawaii Revised Statutes (Board of Cosmetology)
- (3) Chapter 447, Hawaii Revised Statutes (Dental Hygienists)
- (4) Chapter 463, Hawaii Revised Statutes (Board of Private Detectives and Guards)
- (5) Chapter 468J, Hawaii Revised Statutes (Travel Agencies)
- (6) Chapter 471, Hawaii Revised Statutes (Board of Veterinary Examiners)
- (d) The following chapters are hereby repealed effective December 31,

\*Edited accordingly.

## ACT 163

1981:

- (1) Chapter 441, Hawaii Revised Statutes (Cemetery Board)
- (2) Chapter 451A, Hawaii Revised Statutes (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B, Hawaii Revised Statutes (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 458, Hawaii Revised Statutes (Board of Dispensing Opticians)
- (5) Chapter 459, Hawaii Revised Statutes (Board of Examiners in Optometry)
- (6) Chapter 465, Hawaii Revised Statutes (Board of Certification for Practicing Psychologists)
- (7) Chapter 468E, Hawaii Revised Statutes (Board of Speech Pathology and Audiology)
- (e) The following chapters are hereby repealed effective December 31,

1982:

- (1) Chapter 436D, Hawaii Revised Statutes (Board of Acupuncture)
- (2) Chapter 437B, Hawaii Revised Statutes (Motor Vehicle Repair Industry Board)
- (3) Chapter 442, Hawaii Revised Statutes (Board of Chiropractic Examiners)
- (4) Chapter 448E, Hawaii Revised Statutes (Board of Electricians and Plumbers)
- (5) Chapter 464, Hawaii Revised Statutes (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466, Hawaii Revised Statutes (Board of Public Accountancy)
- (7) Chapter 467, Hawaii Revised Statutes (Real Estate Commission)
- (f) The following chapters are hereby repealed effective December 31,

1983:

- (1) Chapter 444, Hawaii Revised Statutes (Contractors License Board)
- (2) Chapter 448, Hawaii Revised Statutes (Board of Dental Examiners)
- (3) Chapter 453, Hawaii Revised Statutes (Board of Dental Examiners)
- (4) Chapter 457, Hawaii Revised Statutes (Board of Nursing)
- (5) Chapter 460, Hawaii Revised Statutes (Board of Osteopathic Examiners)
- (7) Chapter 461, Hawaii Revised Statutes (Board of Pharmacy)
- (g) The following chapters are hereby repealed effective December 31,

1984:

- (1) Chapter 463E, Hawaii Revised Statutes (Podiatry)

SECTION 2. Chapter 463E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 463E- Delegation of duties.** Except for proceedings under section 463E-6 and the adoption of rules under section 463E-12, the Board may delegate its duties under this chapter to a committee of not less than three podiatrists licensed under this chapter appointed by the Board; provided that the Board shall ratify any action taken by the committee."

SECTION 3. Statutory material to be repealed is bracketed. New material

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

## ACT 164

H.B. NO. 2402-78

A Bill for an Act Relating to Fishing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-35, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 188-35 Fishing in Waikiki and other waters; penalty.** It shall be unlawful for any person to fish in the waters of the Waikiki reclamation canal, the drainage canal constructed in connection with Kapiolani Boulevard, the Kapalama drainage canal, off Heeiea-kea wharf, within that portion of Waialua Bay delineated on the seaward boundary by lines drawn 100 yards seaward of and parallel to the Haleiwa Harbor Breakwater and 100 yards seaward of and parallel to the Haleiwa Beach Groin including the extension to the intercept of these lines and the inland boundary consisting of a line drawn 10 yards downstream of and parallel to the Anahulu Bridge and within that portion of Pokai Bay delineated on the seaward boundary by a straight line drawn from Kaneilio Point to the South bank of the mouth of the Kaupuni Drainage Canal on Oahu, or the Kapaa and Waikaena canals on Kauai, with any device whatsoever, except as hereinafter provided.

With reference to any of the places or areas named above, any person may at any time fish or take any fish with one line, or one rod and line, provided the line shall not have more than two hooks; or may take crabs with not more than ten nets, provided the nets shall not exceed two feet in diameter; or may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension[.]; provided that in the Waikiki reclamation canal any person may take up to fifty tabai or mosquito fish, or o'opu akupa, or tilapia or any combination thereof, per day, for non-commercial purposes only, with a single, small mesh net, provided that the net including any handle and other attachment thereto shall not exceed three feet in any dimension.

With a permit obtained from the department of land and natural resources and under such rules and regulations as the department may prescribe, the owner or operator of a fish pond may take pua or other small fish, using nets, for the purpose of stocking such fish pond.

With a permit from the department, commercial fisherman may take nehu or iao, using nets, for bait purposes only.

The department may issue such permits at its discretion and at any time may revoke any or all such permits when, in its judgment, the action is necessary

\*Edited accordingly.

## ACT 165

to preserve the stock of fish in the canals or waters.

Any person who violates this section shall be fined not less than \$25 nor more than \$200, or imprisoned not more than six months, or both."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

## ACT 165

H.B. NO. 2689-78

A Bill for an Act Relating to Land Use.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Within agricultural districts, uses compatible to the activities described in Section 205-2 as determined by the land use commission shall be permitted. Other uses may be allowed by special permits issued pursuant to this chapter. The minimum lot size in agricultural districts shall be determined by each county through its zoning ordinance, subdivision ordinance or other lawful means; provided that the minimum lot size for any agricultural use shall not be less than one acre, except as provided herein. If the county finds that unreasonable economic hardship to the owner or lessee of land cannot otherwise be prevented or where land utilization is improved, the county may allow lot sizes of less than the minimum lot size as specified by law for lots created by a consolidation of existing lots within an agricultural district and the resubdivision thereof; provided that the consolidation and resubdivision do not result in an increase in the number of lots over the number existing prior to consolidation; provided further, that in no event shall a lot, which is equal to or exceeds the minimum lot size of one acre be less than that minimum after the consolidation and resubdivision action. The county may also allow lot sizes of less than the minimum lot size as specified by law for lots created or used for public, private and quasi-public utility purposes and for lots resulting from the subdivision of abandoned roadways and railroad easement."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

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\*Edited accordingly.



A Bill for an Act Related to Land Use.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-6, Hawaii Revised Statutes, is amended to read:

**"Sec. 205-6 Special permit.** The county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use his land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which his land is located for permission to use his land in the manner desired. Each county may establish the appropriate fee for processing the special permit petition.

The planning commission, upon consultation with the central coordinating agency, except in counties where the planning commission is advisory only in which case the central coordinating agency, shall establish by rule or regulation, the time within which the hearing and action on petition for special permit shall occur. The county planning commission shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

The county planning commission may under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter. A decision in favor of the applicant shall require a majority vote of the total membership of the county planning commission, which shall be subject to the approval of the land use commission, provided that the land use commission may impose additional restrictions as may be necessary or appropriate in granting such approval, including the adherence to representations made by the applicant. A copy of the decision together with the complete record of the proceeding before the county planning commission shall be transmitted to the land use commission within sixty days after the decision is rendered. Within forty-five days after receipt of the complete record from the county planning commission, the land use commission shall act to approve, approve with modification, or deny the petition. A denial either by the county planning commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure."

SECTION 2. Section 205-16.2, Hawaii Revised Statutes, is amended to read:

**"Sec. 205-16.2 Legal effect of interim statewide land use guidance policy.** The interim statewide land use guidance policy set forth in section 205-16.1 shall remain in full force and effect during the period from June 2, 1975, until two years after the effective date of the enactment of the state plan."

SECTION 3. Statutory material to be repealed is bracketed. New material

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 167

H.B. NO. 2765-78

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-68 is amended to read as follows:

**"Sec. 521-68 Landlord's remedies for failure by tenant to pay rent.** (a) A landlord or his agent may, any time after rent is due, demand payment thereof and notify the tenant in writing that unless payment is made within a time mentioned in the notice, not less than five business days after receipt thereof, the rental agreement will be terminated. If the tenant cannot be served with notice as required, notice may be given the tenant by posting the same in a conspicuous place on the dwelling unit. If the tenant remains in default, the landlord may thereafter bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession.

(b) A landlord or his agent may bring an action for rent alone at any time after he has demanded payment of past due rent and notified the tenant of his intention to bring such an action."

SECTION 2. Section 521-69, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 521-69 Landlord's remedies for tenant's waste, failure to maintain, or unlawful use.** (a) If the tenant is in material noncompliance with section 521-51, the landlord, upon learning of any such noncompliance and after notifying the tenant in writing of the noncompliance and allowing a specified time not less than fifteen days after receipt of the notice, for the tenant to remedy the non-compliance:

- (1) May terminate the rental agreement and bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession if the tenant is in material noncompliance with section 521-51 (1); or
- (2) May remedy the tenant's failure to comply and bill the tenant for the actual and reasonable cost of such remedy if the noncompliance can be remedied by the landlord by cleaning, repairing, replacing a damaged item, or the like, which bill shall be treated by all parties as rent due and payable on the next regular rent collection date or, if the tenancy has terminated, immediately upon receipt by the tenant.

No allowance of time to remedy noncompliance shall be required when non-

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\*Edited accordingly.

compliance by the tenant causes or threatens to cause irreparable damage to any person or property. If the tenant cannot be served with notice as required, notice may be given the tenant by posting the same in a conspicuous place on the dwelling unit."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 168

H.B. NO. 2845-78

A Bill for an Act Relating to State Law Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 28-11.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 28-11.5 State law enforcement officers; appointment and powers.** Employees of the department of the attorney general engaged as state law enforcement officers, upon specific authorization and direction of the attorney general, shall have all of the powers of police officers, including the power of arrest; provided that such powers shall remain in force and effect only while the state law enforcement officers are in actual performance of their duties as state law enforcement officers which duties shall include off-duty employment when such employment is for other state departments or agencies."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

ACT 169

S.B. NO. 350

A Bill for an Act for Mandatory Certification of Operating Personnel in Wastewater Treatment Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Purpose. The purpose of this Act is to protect the public health and to conserve and protect the water resources of the State; to provide for the classifying of all public and private wastewater treatment plants; to require the examination of operating personnel and certification of their competency to

\*Edited accordingly.

operate and supervise the operation of such systems and facilities; to create a board of certification of wastewater treatment plant operators; to prescribe the powers and duties of the board of certification in these matters; to provide for the promulgation of rules and regulations; to provide for reciprocal arrangements; and to prescribe penalties for violation of the Act.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately numbered and to read as follows:

**“CHAPTER  
HAWAII LAW FOR MANDATORY CERTIFICATION OF  
OPERATING PERSONNEL IN WASTEWATER TREAT-  
MENT PLANTS**

**Sec. -1 Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) “Person” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality, or any other legal entity.
- (2) “Operator” means any individual who operates a wastewater treatment plant, or a major segment of a wastewater treatment plant.
- (3) “Supervisor” means, where shift operation is not required, any individual who has direct responsibility for the operation of a wastewater treatment plant or who supervises operators of such a plant. Where shift operation is required, “supervisor” means any individual who has direct responsibility for active daily on-site technical and administrative supervision, and active daily on-site charge of an operating shift, or a major segment of a wastewater treatment plant.
- (4) “Wastewater treatment plant” means the various facilities used in the treatment of wastewater, including a wastewater reclamation plant, but excluding a private sewage treatment plant with actual flows greater than 2.0 million gallons per day, with a valid discharge permit issued pursuant to chapter 342, and without a record of adjudged violations of any permit conditions at any time for the life of the permit.
- (5) “Association of boards of certification for operating personnel in water and wastewater utilities” means that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for the classification of potable water supply and wastewater systems and facilities and for certification of operators, facilitates reciprocity between state programs, and assists authorities in establishing new certification programs and upgrading existing programs.
- (6) “Director” means the director of health.
- (7) “Board” means the board of certification established by section -4.

**Sec. -2 Classification.** The board shall classify all wastewater treatment plants. Cesspool and septic tank facilities connected to an individual household

shall be exempt from classification. Industrial facilities for treatment of process water from oil refineries and sugar mills shall be exempt from classification provided such waste streams contain no domestic component and further provided that they do not discharge to a municipal collection, treatment, or disposal system. Application for exemption from classification of other industrial wastewater treatment facilities may be made to the director. In classifying or exempting from classification wastewater treatment, the board shall consider the applicable provisions in chapter 38 of the department of health regulations regarding wastewater treatment facilities and any rules and regulations of the department of health pertaining to the control of underground injection of wastewater. The classification shall take due regard to size and type, character of wastewater to be treated, other physical conditions affecting such wastewater treatment plants, and the skill, knowledge and experience required of an operator.

**Sec. -3 Certification.** (a) Upon board approval the director shall issue certificates entitling qualified individuals to operate wastewater treatment plants. Each certificate shall indicate the class of wastewater treatment plant for which the individual is qualified.

(b) The director shall issue a certificate to each applicant who, on the effective date of this chapter, holds a valid certificate issued to him pursuant to the voluntary program, conducted by the Hawaii water pollution control association for certification of operators of wastewater treatment plants in this State; provided that such applicant files an application with the director within one hundred eighty days immediately following the effective date of this chapter.

(c) The director may issue a certificate, without requiring a qualifying examination therefor, to an applicant who is an operator satisfactorily operating a wastewater treatment plant on the effective date of this chapter; provided that such certificate shall be valid only for the operation of that wastewater treatment plant or a similar wastewater treatment plant.

**Sec. -4 Board of certification.** (a) A state board of certification of nine members, shall be appointed by the governor to carry out this chapter. The board shall be placed, for administrative purposes, in the department of health. The board shall consist of the following:

- (1) Four individuals who shall be employed in a wastewater treatment plant either as a certified operator or certified supervisor of a wastewater treatment plant. Three of the individuals must be employed in the outer island counties; one individual from the county of Hawaii, one from the county of Kauai, and one from the county of Maui.
- (2) One individual who is an active member of the Hawaii water pollution control association.
- (3) One individual who is a professional engineer in private practice, preferably specializing in sanitary engineering.
- (4) One individual who is a member of the engineering (environmental or sanitary) faculty of a university or college in the State.
- (5) One individual from the state agency responsible for the State's water quality program.

(6) One individual from the private sector interested in the field of water pollution control.

(b) The foregoing members shall serve for four-year terms except that of the initial appointments, one shall be for one year, two shall be for two years, two shall be for three years, and four shall be for four years.

(c) The members of the board shall meet for an organizational meeting at the call of the director, within forty-five days of their appointment and thereafter at least twice a year at such time and place as may be provided by rules and regulations adopted by them. The members of the board shall annually elect one of the board members to serve as chairperson. Additional meetings may be called by the chairperson as deemed necessary. Notice of such meeting shall be given all members in writing at least ten days prior to the date of the meeting.

(d) The governor shall fill any vacancy in the board and may remove any member for cause.

(e) Board members shall be reimbursed for expenses incurred in the performance of their duties.

**Sec. -5 Association of certification authorities.** The board may, when taking action pursuant to sections -2, -3, and -7 of this chapter, consider generally applicable criteria and guidelines developed by the association of boards of certification for operating personnel in water and wastewater utilities.

**Sec. -6 Certification requirement.** All classified wastewater treatment plants whether publicly or privately owned, used or intended for use by the public or private persons, shall at all times be under the direct supervision of an individual whose competency is certified to by the director in a classification corresponding to the classification of the wastewater treatment plant to be supervised.

**Sec. -7 Regulations.** The board shall adopt such rules and regulations as may be necessary for the administration of this chapter, and which shall include at least the following provisions:

- (1) The basis for classification of wastewater treatment plants as required by section -2;
- (2) Criteria for the qualification of applicants for operator certification corresponding to each of the classifications referred to in paragraph (1) of this section;
- (3) Procedures for examination of candidates and renewal of certificates; and
- (4) Procedures for the revocation of certificates.

**Sec. -8 Prohibited acts.** It shall be unlawful:

- (1) For any wastewater treatment plant to be operated unless the operator is duly certified under this chapter;
- (2) For any individual to perform the duties of an operator without being duly certified under this chapter.

**Sec. -9 Injunctions and civil penalty.** Any person who violates any provision of this chapter, or any rules, regulations, criterion, procedure, or certificate issued hereunder may, in a legal action commenced by the board:

- (1) Be enjoined from continuing such violation; and
- (2) Be subject to a civil penalty of not less than \$100 a day and not greater than \$200 a day for each day of continuing violation.

**Sec. -10 Criminal penalties.** Any individual who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any rule or regulation adopted under this chapter shall be guilty of a petty misdemeanor.

**Sec. -11 Powers and duties of the board.** To carry out the provisions and purposes of this chapter, the board shall:

- (1) Perform any and all acts and adopt, amend, or repeal such rules and regulations as it finds necessary or appropriate;
- (2) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as deemed appropriate with other state, federal, or interstate agencies, municipalities, educational institutions, or other organizations or individuals;
- (3) Receive financial and technical assistance from the federal government and other public or private agencies;
- (4) Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations;
- (5) Furnish upon request to federal, state or interstate agencies, municipalities, educational institutions and other organizations and individuals, reports, information and materials relating to the certification program authorized by this chapter;
- (6) Revoke, suspend, or refuse to renew any certificate of any individual following a hearing before the board of the individual or his designated representative, when it is determined that the individual has practiced fraud or deception; that reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or that the individual is incompetent or unable to properly perform his duties; provided that the board gives the person concerned notice and hearing in conformity with chapter 91;
- (7) Delegate those duties and responsibilities the board may deem appropriate for the purpose of administering requirements of this chapter;
- (8) Establish and collect such fees for application, conduct examinations, issue or renew certificates as are necessary for the support of this chapter, and deposit all fees collected into the State's general fund; and
- (9) Oversee the development and implementation of a continuous training program if that is necessary to carry out this chapter.

**Sec. -12 Annual report.** Within twelve months from the effective date of this chapter, and annually thereafter, the board shall submit to the governor, through the director, a report summarizing the actions taken under this chapter, and the effectiveness of such actions and such information and recommendations, including legislative recommendations, as deemed appropriate.

**Sec. -13 Reciprocity.** (a) On or after the effective date of this chapter,

certification of operators by any state which, as determined by the board, accepts certifications made or certification requirements deemed satisfactory pursuant to this chapter, shall be accorded reciprocal treatment and shall be recognized as valid and sufficient within the purview of this chapter, if in the judgment of the board the certification requirements of such state are substantially equivalent to the requirements of this chapter or any rules or regulations adopted hereunder and providing further that reciprocal privileges are granted to certified operators of this State.

(b) In making determinations pursuant to subsection (a) of this section, the board may consider any generally applicable criteria and guidelines developed by the association of boards of certification for operating personnel in water and wastewater utilities."

SECTION 3. The provisions of this Act are intended to supersede existing laws of this State insofar as they relate to the matters included in this Act.

SECTION 4. Severability. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this Act which can be given effect without regard to the invalid provision or application.

SECTION 5. Effective date. This Act shall take effect upon approval; provided that the provisions of sections -6 and -8 in Section 2 shall take effect two years from the effective date of this Act.

(Approved June 2, 1978.)

ACT 170

S.B. NO. 1342-77

A Bill for an Act Relating to the Issuance of Revenue Bonds for Anti-Pollution Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to permit pollution control bond funding for resource recovery projects, for or by a political subdivision of this State, which will be used for a public purpose and to encourage the participation of private capital.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **"CHAPTER POLITICAL SUBDIVISION POLLUTION CONTROL BONDS**

**Sec. -1 Definitions.** As used in this chapter, unless the context otherwise requires:

(1) "Cost" or "costs" as applied to a pollution control project or portion



thereof financed under this chapter includes all or part of:

- (A) The cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project;
  - (B) The cost of demolishing or removing any buildings or structures on land thus acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;
  - (C) The cost of all machinery and equipment;
  - (D) Financing charges, interest accruing prior to, during, and for a period after completion of construction as determined by the political subdivision, provisions for reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements;
  - (E) The cost of architectural, engineering, financial, and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of any project.
- (2) "Director" or "director of finance" means the director of finance of a political subdivision.
  - (3) "Governing body" means the body, council, or board charged with exercising the legislative authority of a political subdivision.
  - (4) "Person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of two or more of the foregoing.
  - (5) "Political subdivision" means a county or other political subdivision of the State created by the legislature pursuant to Article VII, section 1, of the State Constitution.
  - (6) "Pollution control project" means any property, or improvements or alterations to property, designed, acquired, constructed, installed, or modified by or for a political subdivision and certified as necessary or desirable by the state department of health to abate, control, reduce, treat, eliminate, or dispose of solid or liquid in a manner which provides for the recovery of energy or material resources, or both.
  - (7) "Project agreement" means any lease, sublease, conditional sale agreement, or other similar financing contract or agreement, or combination thereof entered into under this chapter by the political subdivision, including the financing from the proceeds of the revenue bonds of a pollution control project pursuant to which legal title to that project is maintained by the political subdivision until such bonds have been retired.
  - (8) "Project party" means the person with whom the political subdivision enters into a project agreement.
  - (9) "Revenue bonds" means revenue bonds issued pursuant to this chapter.

**Sec. -2 Powers.** A political subdivision may:

- (1) In addition to any other powers provided by law, undertake the acquisition, construction, installation, or modification of pollution control

projects, either directly or through a project party, and to that end enter into, amend, supplement, and carry out a project agreement with a project party, and enter into and carry out any other agreement whereby the obligations of a project party under a project agreement shall be unconditionally guaranteed by, or the performance thereof assigned to, a person other than the project party. Without limiting the generality of the foregoing, if the project agreement provides for the acquisition by the political subdivision of interest in property in connection with the pollution control project, such property may be acquired by the political subdivision subject to existing liens, mortgages, or other encumbrances.

- (2) Issue revenue bonds in such principal amounts as may be necessary to finance the cost of pollution control projects.
- (3) Disburse the proceeds of the revenue bonds issued for a pollution control project, either directly or through a trustee or a project party, for use and application by the political subdivision or project party in the acquisition, construction, installation, or modification of a pollution control project, or agree with the project party whereby any of these activities shall be undertaken or supervised by that project party or by a person designated by the project party, and accept the assignment of any contract for any of these activities; provided that the liability of the political subdivision under any assignment hereunder shall be limited to the proceeds of the revenue bonds and any moneys of a project party made available therefore.
- (4) Sell a pollution control project or projects at one time, or from time to time, at a price or prices which may be nominal or less than the true value, or at the time of the sale, enter into agreements for the sale upon such terms and conditions as the political subdivision may deem suitable to carry out the purposes of this chapter and take and receive notes or other evidences of indebtedness with respect to the sale; provided that legal title to a pollution control project sold hereunder shall not pass from the political subdivision to the buyer until all revenue bonds sold to finance the project costs relating to acquisition, construction, installation, or modification, operation, maintenance, and repair incurred to the date of sale have been paid or adequate provision therefor has been made.
- (5) As security for the payment of the principal and interest on revenue bonds issued to finance the costs of the pollution control project and any related agreement:
  - (A) Pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived by the political subdivision from use, lease, or operation of a pollution control project, whether then owned or thereafter acquired;
  - (B) Pledge and assign the interest and rights of the political subdivision under the project agreement or other agreement with respect to such project;
  - (C) Pledge and assign any bond, debenture, note, or other evidence of

indebtedness received by the political subdivision with respect to such project;

- (D) Mortgage or pledge, or both, all or any part of the interest of the political subdivision in any pollution control project or project property from which is derived the revenues and receipts to pay the bonds, including in that mortgage or pledge any enlargement and addition to that project thereafter made; or
  - (E) Any combination of the foregoing.
- (6) With or without terminating a project agreement, exercise any and all rights provided by law for entry and re-entry upon or to take possession of a pollution control project at any time or from time to time upon breach or default by a project party under a project agreement. The political subdivision may bring any action at law or in equity for the purpose of effecting its rights of entry or re-entry or obtaining possession of the project or for the payments of the rentals, user taxes, or charges or any other sums due and payable by the project party to the political subdivision pursuant to the project agreement.
- (7) Do all things necessary or proper to carry out the purposes of this chapter.

**Sec. -3 Exemption from taxation.** All revenues and receipts derived by the political subdivision from any pollution control project shall be exempt from all state and county taxation. The right, title, and interest of the political subdivision in any pollution control project shall also be exempt from all state and county taxation. Except as provided in sections 237-27.5, 238-3(j), and 246-34.5, any leasehold or other interest of the project party or other user of that project in a pollution control project or under the project agreement or related agreement shall not be exempt from taxation to any greater extent than it would be if the costs of the project were directly financed by the project party or other user. Any other law to the contrary notwithstanding, any transfer or title, or of any interest in, a pollution control project or any portion thereof, by a project party or any person affiliated with a project party to the political subdivision or by the political subdivision to such a party, shall be exempt from the use and general excise taxes.

**Sec. -4 Findings and determinations.** (a) The political subdivision shall not undertake any pollution control project or enter into any project agreement with respect thereto unless the political subdivision shall first find and determine:

- (1) Either that the proposed project party is a responsible party, whether by reason of economic assets, experience in the type of enterprise to be undertaken through the project, or otherwise, or that the obligations of the project party under the project agreement will be unconditionally guaranteed by, or the performance thereof is assigned to, a person who is a responsible party, whether by reason of economic assets, experience in the type of enterprise to be undertaken through the project, or otherwise; and
- (2) That the political subdivision will have sufficient proprietary control of the pollution control project during the time in which revenue bonds are outstanding to finance such project and to ensure that the subdivision is

able to impose rates and charges, a user tax, or a combination thereof, for the use and services of the pollution control project sufficient to pay the cost of operation, maintenance, and repair of the project and the required payments, premium, if any, and interest on any revenue bonds issued to finance the acquisition, construction, installation, or modification of that project.

**Sec. -5 Project agreement.** (a) Any project agreement entered into by the political subdivision shall contain provisions unconditionally obligating the project party to pay the political subdivision during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the pollution control project is used or occupied by the project party, in the form of rates, rentals, fees, charges, payments of installments of the purchase price, or otherwise, at such time or times and in such amount or amounts that will be at least sufficient:

- (1) To pay the principal, premium, if any, and interest on all revenue bonds issued to finance the costs of the pollution control project as and when the same becomes due;
- (2) To establish or maintain such reserves, if any, as may be required by the instrument authorizing or securing the revenue bonds;
- (3) To pay the fees and expenses of the paying agents and trustees for the revenue bonds;
- (4) To pay the expenses incurred by the political subdivision in administering the bonds or in carrying out the project or the project agreement; and
- (5) To pay any and all of the cost incurred by the political subdivision, directly or indirectly, in the operation, maintenance, and repair of the pollution control project or to perform these functions at its own expense.

(b) Any project agreement entered into by the political subdivision may contain such provisions as the political subdivision deems necessary or desirable to obtain or permit the participation of the state and federal government in the pollution control project or in the financing of the costs thereof.

(c) A project agreement shall also provide that the political subdivision shall have all rights and remedies generally available at law or in equity to unpaid sellers or lessors as the case may be to re-enter and take possession of a pollution control project upon the breach or default by a project party of any term, condition, or provision of a project agreement.

(d) The political subdivision may extend or renew any project agreement or any other agreement related thereto, in accordance with the project agreement.

(e) The political subdivision shall impose, prescribe, and collect rates, rentals, fees, and charges for the use and occupancy of any pollution control project, for any services provided through its operation, and for any goods or commodities produced thereby in order to provide for the timely payment of the principal, premium, if any, and interest of the revenue bonds issued to finance the costs of the project and the costs of the operation, maintenance, and repair thereof.

**Sec. -6 Project revenue bonds.** (a) All revenue bonds issued under this chapter shall be issued pursuant to the applicable provisions of chapter 49 except that:

- (1) No specific act or acts of the legislature shall be required for the authorization or issuance of the revenue bonds or the amount thereof, and this chapter shall constitute complete authority for such authorization, issuance, or amount.
- (2) The revenue bonds shall be payable solely from the revenues or other income derived by the political subdivision from the pollution control project for which these bonds are issued, including any payments made to the political subdivision under the project agreement or other agreements entered into with respect to the project, and shall be secured solely by these revenues and any encumbrance, mortgage, or lien granted in a pollution control project with respect to the bonds.
- (3) The final maturity date of such revenue bonds may be any date not exceeding twenty-five years from the date of such bonds; provided that such final maturity date shall not exceed the period or term of the project agreement, exclusive of any renewal or extension thereof.
- (4) The political subdivision, in determining the cost of any pollution control project, may include:
  - (A) Financing charges;
  - (B) Fees and expenses of any trustee and paying agents for these revenue bonds;
  - (C) Interest on the revenue bonds, and the expenses of the political subdivision related to such revenue bonds and the pollution control project to be financed therefrom, accruing or incurred prior to and during the period of construction and for a period not exceeding six months thereafter;
  - (D) Amounts necessary to establish or increase reserves for the revenue bonds;
  - (E) The cost of plans, specifications, studies, surveys, estimates of cost and of revenues;
  - (F) Other expenses incidental to determining the feasibility of the pollution control project;
  - (G) Administrative expenses;
  - (H) Interest cost incurred by the project party for the project prior to the issuance of the revenue bonds; and
  - (I) Such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, or extension of the pollution control project, the financing thereof, placing the project in operation, and the issuance of the revenue bonds, whether incurred prior to or after the issuance of such bonds.
- (5) If deemed necessary or advisable, the director may appoint a national or state bank or trust company within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture, trust agreement, indenture, or mortgage with such trustee.

The trustee may be authorized to receive and receipt for, hold, and administer the proceeds of the revenue bonds issued for the pollution control project and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived from the pollution control project and to apply these revenues and receipts to the payment of the principal, or interest on such revenue bonds, or both. In the event that the trustee is appointed, any trust indenture, trust agreement, or indenture or mortgage entered into with the trustee may contain any covenants and provisions authorized by this chapter as deemed necessary by the director for the purposes of this chapter, and these covenants or provisions need not be included in a resolution adopted or certificate issued under this chapter. Any resolution, certificate, trust indenture, trust agreement, indenture, or mortgage adopted, issued, or entered into pursuant to this chapter may also contain any provisions required for the qualification thereof under the United States Trust Indenture Act of 1939 or deemed necessary or desirable by the director for the security and protection of the holders of the revenue bonds or to carry out the purposes of this chapter. The director may pledge and assign to the trustee the project agreement and other agreements related thereto and the rights of the director thereunder, including the rights to revenues and receipts, and may grant a mortgage on the interest of the pollution control project to the trustee for the benefit of the holders of such revenue bonds.

- (6) If the director of finance appoints a trustee for the holders of the revenue bonds, the director may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director performs as such fiscal agent. The director may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the director deems necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction or the destruction thereof.
- (7) The resolution, certificate, trust indenture, trust agreement, or indenture of mortgage may also contain provisions deemed necessary or desirable by the director relating to:
  - (A) The investment of the proceeds of the revenue bonds, the investment of any reserve for such bonds, and the investment of the revenues and receipts of the project and the use and application of the earnings from such investments; and
  - (B) The terms and conditions upon which all or some of the holders of the revenue bonds or any trustee therefor may institute proceedings for the foreclosure of any mortgage granted to secure the payment of such bonds and the use and application of the moneys derived

from such foreclosure.

- (8) The resolution, certificate, trust indenture, trust agreement, or indenture of mortgage may also contain such provisions as deemed necessary or desirable by the director in order to obtain or permit the participation of the federal government in the pollution control project or in the financing of the costs thereof, including, without limitation, costs of construction, operation, maintenance, and repair, whether such participation is in the form of grants, interest subsidies, or otherwise.
- (9) If a trustee is not appointed to collect, hold, and administer the proceeds of the revenue bonds or the revenues and receipts derived by the political subdivision from the pollution control project for which such revenue bonds are issued, these proceeds or revenues and receipts, as the case may be, shall be held in a separate account in the treasury of the political subdivision, to be applied solely to the carrying out of the resolution, certificate, trust indenture, trust agreement, or indenture of mortgage authorizing or securing such revenue bonds. This section or any other law to the contrary notwithstanding, the proceeds of each issue of revenue bonds and any and all revenues and other receipts from any project party for the operation, use, and occupancy of the pollution control project shall be maintained in separate funds by an appointed trustee or in the treasury of the political subdivision. Such proceeds shall be used to pay the costs of such pollution control project, and such revenues and receipts shall be used to provide for payment of the principal, premium, if any, and interest on the revenue bonds, the cost of operation and the maintenance and repair of the project, any reserves therefor, and for such other purposes, within the jurisdiction, powers, duties, and functions of the political subdivision as shall have been covenanted in any resolution or certificate of the political subdivision providing for the issuance of such revenue bonds.
- (10) Proceeds of such revenue bonds may be used and applied to reimburse the director, the project party, or other user of the pollution control project for all costs of the pollution control project incurred prior to or after the issuance of the revenue bonds.

**Sec. -7 Transactions for utility services.** Any other law to the contrary notwithstanding, the disposal of liquid or solid waste by the political subdivision or project party is a utility service, but shall not place the political subdivision or a project party in any way under the jurisdiction of the public utilities commission; provided that in the case of a project party, the project party shall not provide any utility services other than the disposal of liquid, solid waste, or any combination thereof or the sales of goods or commodities, including energy produced by the operation of any pollution control project, where these sales are made only to registered public utilities, industrial or commercial concerns, or counties or county agencies and not to the general public.

**Sec. -8 Liquidated damages.** This chapter or any other law to the contrary notwithstanding, a project agreement or a contract for the provisions of utility services, goods, or commodities, including water or electrical energy, by

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the political subdivision or by a project party, may provide for the payment of liquidated damages by a purchaser or by a project party; provided that this liquidated damages provision shall be reasonable and shall be enforceable if measured and established by reference to the proportionate relationship of the payments owed by the party subject to the liquidated damages provision to the total costs of the pollution control project, the cost of maintenance, operation, and repair thereof, and to the total operating capacity thereof.

**Sec. -9 Sale of revenue bonds.** Notwithstanding the provisions of chapter 49, the revenue bonds authorized by this chapter may be sold at public or private sale at such price or prices and may bear interest at such rate or rates as the governing body of the political subdivision determines."

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 2, 1978.)

## ACT 171

S.B. NO. 2617-78

A Bill for an Act Relating to Establishment of a Conservation and Resources Enforcement Program Within the Department of Land and Natural Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated, and to read as follows:

### **"CHAPTER CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM**

**Sec. -1 Board of land and natural resources, powers and duties.** The board of land and natural resources shall establish within the department of land and natural resources a conservation and resources enforcement program relating to the enforcement of chapters under title 12 entitled "Conservation and Resources," and rules and regulations promulgated thereunder, and shall employ or appoint, and remove, the following persons, subject to chapters 76 and 77 and section 78-1, who shall be provided with suitable badges or insignia of office by the department of land and natural resources:

- (1) An enforcement chief of the department of land and natural resources, who shall be the head of the conservation and resources enforcement program and shall have charge, direction and control, subject to the direction and control of the board, of all matters relating to the enforcement of State conservation and resources laws and rules and regulations promulgated thereunder and such other matters as the board may from time to time direct. The enforcement chief shall be an administrator experienced in conservation and resources law enforcement and management.



- (2) Personnel and enforcement officers of the conservation and resources enforcement program, including but not limited to enforcement officers on a voluntary basis and without pay.

**Sec. -2 Board of land and natural resources, delegation of authority.** The board of land and natural resources may delegate to enforcement officers within the conservation and resources enforcement program, such authority as may be required for enforcement of State conservation and resources laws and rules and regulations promulgated thereunder.

**Sec. -3 Conservation and resources enforcement officers, duties.** The conservation and resources enforcement officers, with respect to all State lands, including public lands, State parks, forest reserves, forests, fish and game areas, and any other lands and waters subject to the jurisdiction of the department of land and natural resources, shall:

- (1) Enforce title 12 and rules and regulations promulgated thereunder;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct such field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual agreements for conservation and resources enforcement activities within the State;
- (4) Cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs, and mutual aid agreements for search and rescue activities within the State;
- (5) Check and verify all leases, permits and licenses issued by the department of land and natural resources;
- (6) Carry out such other duties and responsibilities as the board of land and natural resources may from time to time direct.

**Sec. -4 Board of land and natural resources, police powers.** The board of land and natural resources shall have police powers, which may be delegated to the enforcement officers within the conservation and resources enforcement program, including the power to serve and execute warrants, issue citations, and arrest offenders of title 12 and the rules and regulations promulgated thereunder. Such police powers shall also extend to the enforcement of the laws of the State within the areas under jurisdiction of the department of land and natural resources.

An enforcement officer, upon arresting any person for violation of title 12 and rules and regulations promulgated thereunder, may immediately take the person arrested to a police station or before a district judge, or take the name, address, and the number of the fishing, hunting, or other licenses or permits, if any, of the person, and note the violation of such law, rule, or regulation by the person, and issue him a summons or citation, printed in the form described in section -5, warning him to appear and to answer to the charge against him at a certain place and time within seven days after the arrest. Any person failing to obey a summons issued pursuant to this section shall be subject to section -6.

**Sec. -5 Summons or citation.** There shall be a form of summons or

citation for use in citing violators of title 12 and rules and regulations promulgated thereunder, which do not mandate the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citation used in modern methods of arrest and shall be so designed to include all necessary information to make it valid and legal within the laws and regulations of the State. The form and content of the summons or citation shall be adopted or prescribed by the district courts.

In every case where a summons or citation is issued the original of the same shall be given to the violator; provided that the district courts may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies.

Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

**Sec. -6 Failure to obey a summons.** Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the officers or their agents or subordinates, upon his arrest for violation of title 12 and rules and regulations promulgated thereunder, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$500 or be imprisoned not more than six months, or both.

If any person fails to comply with a summons or citation issued to him, or if any person fails or refuses to deposit bail as required and within the time permitted, the officers shall cause a complaint to be entered against the person and secure the issuance of a warrant for his arrest.

When a complaint is made to any prosecuting officer of the violation of title 12 and rules and regulations promulgated thereunder, the officer who issued the summons or citation shall subscribe to it under oath administered by another official or officials of the department of land and natural resources whose names have been submitted to the prosecuting officer and who have been designated by the chairman of the board of land and natural resources to administer the same.

**Sec. -7 Seizure and forfeiture of equipment.** Any equipment, article, or instrument used or possessed in violation of title 12 and rules and regulations promulgated thereunder, is declared to be a public nuisance and subject to seizure by any enforcement officer of the department of land and natural resources or by any police officer; and upon conviction of the person having possession or control of such equipment, article or instrument for a violation of any provision of such laws or rules and regulations, the equipment, article or instrument may be declared by the court to be forfeited to the State. Any property so forfeited shall be turned over to the department of land and natural resources and destroyed, if illegal, or otherwise shall be sold at public auction in the judicial circuit in which it was seized, the auction to be held once annually at a place and time to be designated by the department and notice thereof to be published in a newspaper of general circulation within the judicial circuit at least once before the auction, the first publication to be not less than twenty days prior to the auction. The auction shall be conducted by a person other than an employee of the department but designated by the department."

SECTION 2. Enforcement functions transferred. The functions of land

rangers, forest rangers, fish and game agents, and state parks enforcement officers, and the enforcement functions of the state parks system, forestry and the fish and game, or other divisions of the department of land and natural resources may be transferred by the board of land and natural resources to the conservation and resources enforcement program created by this Act.

All officers and employees whose functions may be transferred as herein stated may be transferred with their functions and shall continue to perform assigned duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of transfer to the conservation and resources enforcement program, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided, that the officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided further, that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

**SECTION 3. Property transfer.** All appropriate records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personnel property heretofore made, used, acquired, or held by the divisions whose functions are transferred to the conservation and resources enforcement program shall be transferred with the functions to which they relate.

**SECTION 4. Conservation and resources enforcement program, organization.** The board of land and natural resources shall establish the form and structure of the conservation and resources enforcement program and place this program within the organization of the department of land and natural resources in accordance with all applicable laws and rules and regulations of the State.

**SECTION 5. Applicability of Act.** Nothing in this Act is intended, nor shall it be interpreted, to abolish or diminish any of the powers or duties of the various county police departments and other law enforcement agencies, with respect to all law enforcement or the protection of persons or property.

**SECTION 6.** This Act shall take effect upon its approval.

(Approved June 2, 1978.)

ACT 172

S.B. NO. 1664-78

A Bill for an Act Relating to the Confidentiality of Tax Returns and Information in Tax Returns.

*Be It Enacted by the Legislature of the Stat of Hawaii:*

**SECTION 1.** Section 235-116, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-116 Disclosure of returns unlawful; penalty.** All tax returns and return information required to be filed under this chapter shall be confidential, including any copy of any portion of a federal return which may be attached to a state tax return, or any information reflected in the copy of such federal return. It shall be unlawful for any person, or any officer or employee of the State to make known intentionally information imparted by any income tax return or estimate made under sections 235-92, 235-94, 235-95, and 235-97 or wilfully to permit any income tax return or estimate so made or copy thereof to be seen or examined by any person other than the taxpayer or his authorized agent, persons duly authorized by the State in connection with their official duties, the Multistate Tax Commission or the authorized representative thereof, except as provided by law, and any offense against the foregoing provisions shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

ACT 173

S.B. NO. 2200-78

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the State of Hawaii adopted the federal Internal Revenue Code for the purpose of determining gross income, adjusted gross income, and taxable income in 1957. Since the Hawaii Constitution does not allow the adoption of federal Internal Revenue Code amendments on an as amended basis and since the State of Hawaii did not wish to relinquish control over its internal economic policies, the State has adopted amendments to the federal Internal Revenue Code on a periodic basis and over the period of twenty years in the philosophies of the executive and legislative branches in adopting such amendments have varied. In addition, many of the amendments made to the Internal Revenue Code during this twenty-year period, while not directly affecting the State of Hawaii have affected the Code in various ways and since they did not affect the State directly they were not adopted. Finally, due to either the complex nature of some of the amendments over the years or the quantity of some very technical amendments, such as those made in the Tax Reform Act of 1976, the legislature and the executive branches were unable to give appropriate consideration to their adoption.

The legislature finds that during this twenty-year period, the State adopted version of the federal Internal Revenue Code has become less and less parallel to the Code itself. This has resulted in increased costs to both government and the

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\*Edited accordingly.

private sector due to the necessity of determining which version of the Code Hawaii has adopted in a certain area.

In 1977, the legislature took a great step forward in conforming the state version of the Code with the federal version of the Code through the enactment of Act 47. At that time the legislature asked the department of taxation and the office of the legislative reference bureau with the assistance of the private sector to review the federal Internal Revenue Code and to suggest the appropriate Act to conform our state adopted version of the Code to the federal Code as closely as is desirable for the purposes of this State. This Act is the result of such effort. The legislature finds that adoption of this Act will reduce the cost of doing business for both government and the private sector while resulting in a slight increase in income tax revenues.

In enacting this Act, the legislature notes that in repealing the sections of chapter 235, Hawaii Revised Statutes, it is repealing redundant language in the statutes which are no longer necessary due to the adoption of the federal Internal Revenue Code in the manner in which this Act adopts that Code.

The purpose of this Act is to adopt the federal Internal Revenue Code as it existed on December 31, 1977, except for provisions of the Code which have been determined to be unnecessary or undesirable for the State of Hawaii at this time.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to part I to be appropriately designated and to read as follows:

**"Sec. 235- Conformance to the federal Internal Revenue Code.** (a) For all taxable years beginning after December 31, 1977, as used in this chapter "Internal Revenue Code" means subtitle A, chapter I of the federal Internal Revenue Code of 1954 as amended as of December 31, 1977 as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter and this section do not apply or are otherwise limited in application.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).

- (4) Section 116 (with respect to partial exclusion of dividends received by individuals). For treatment, see section 235-7(c).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment see subsection (g) of this section and sections 235-7(a) (10) to (12) and 235-9(a) (2) and (5).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a) (3).
- (7) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (8) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (9) Section 218 (with respect to contributions to candidates for public office). For treatment, see section 235-7(g).
- (10) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- (11) Section 280C (with respect to portion of wages for which credit is claimed under section 44B).
- (12) Section 367 (with respect to foreign corporations).
- (13) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection (g) of this section. For treatment, see section 235-9.
- (14) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (15) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- (16) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (17) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- (18) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- (19) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- (20) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States). For treatment, see sections 235-4, 235-5, and 235-7(b).
- (21) Section 1055 (with respect to redeemable ground rents).
- (22) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- (23) Section 1201 (with respect to alternative tax). For treatment, see section 235-51(c).
- (24) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).
- (25) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and

their patrons). For treatment, see chapter 421.

(c) The determinations, provisions, and requirements relating to zero-bracket amounts in the amendments to the Internal Revenue Code by Public Law 95-30, sections 101 (with respect to change in tax rates and tax tables to reflect permanent increase in standard deduction) and 102 (with respect to change in definition of taxable income to reflect change in tax rates and tables) shall not be operative for the purposes of this chapter.

(d) Sections 141 (with respect to standard deduction), 142 (with respect to individuals not eligible for standard deduction), and 144 (with respect to election of standard deduction) of the Internal Revenue Code, as amended, as of June 7, 1957, shall be operative for the purposes of this chapter, subsection (a) of this section to the contrary notwithstanding.

(e) Section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code shall be operative for the purposes of this chapter; except the amendments to section 403 by Public Law 87-370, section 3 (with respect to employees of certain educational organizations) shall not be operative.

(f) In administering the provisions of sections 410 to 415 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 415.

In administering sections 401 to 415 (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

(g) Sections 512 to 515 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection (h)(2) of this section and section 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income from a prepaid legal service plan.

(h) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.

- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount on individuals as determined under section 235-51(a).

- (i) Section 644 (with respect to special rule for gain on property transferred to trust at less than market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a) (2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b) (4).

- (j) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

- (k) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

- (1) Subchapter S (sections 1371 to 1379) (with respect to the election of certain small business corporations as to taxable status) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The term small business corporation as defined in section 1371 of the Internal Revenue Code means a corporation which does not have:

- (A) A nonresident as a shareholder; or

- (B) A resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976 and who is taxed under this chapter only on the basis of income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident in subparagraph (B) shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includible in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- (2) An election under section 1372(a) of the Internal Revenue Code made by a small business corporation shall terminate, if for any taxable year of the corporation for which the election is in effect such corporation derives more than eighty per cent of its gross receipts from sources outside the State of Hawaii. Such termination shall be effective for the



taxable year of the corporation in which it derives more than eighty per cent of its gross income from sources outside the State and for all succeeding taxable years;

- (3) An election under section 1372 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal income tax purposes under subchapter S of chapter 1 of the Internal Revenue Code.
- (4) The tax imposed by section 1378(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section 1378(c) (3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net capital gain attributable to property acquired as provided in section 1378(c) (3) (B) of the Internal Revenue Code and having a basis described in section 1378(c) (3) (C) of the Internal Revenue Code.

(m) References in provisions of subtitle A, chapter 1, of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income and loss, and taxable income; provided that references to time limits and other administrative provisions in subtitle F (sections 6001 to 7852) of the Internal Revenue Code contained in operative sections of subtitle A, chapter 1, of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation under subsection (n). If inoperative provisions of subtitle A, chapter 1, of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter or chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control.

(n) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle A, chapter 1, of the Internal Revenue Code operative in this chapter and any administrative provisions of the Internal Revenue Code (subtitle F, sections 6001 to 7852) not in conflict with or similar to provisions contained in this chapter or chapter 231 or 232 either by reference or by setting them forth in full.

(o) The department of taxation shall submit to each regular session of the legislature a bill to amend subsection (a) of this section and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on the December 31 preceding such regular session. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The

department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation."

2. By adding a new section to part VI to be appropriately designated and to read as follows:

**"Sec. 235- Return of electing small business corporation.** Every electing small business corporation (as defined in section 1371 of the Internal Revenue Code) shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by this chapter, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purposes of carrying out this chapter, as the department of taxation may by forms or regulations prescribe. Any return filed pursuant to this section shall, for purposes of sections 235-111 and 235-112 (relating to limitations), be treated as a return filed by the corporation under section 235-92."

3. By adding the following new definitions to section 235-1 to be appropriately inserted and to read as follows:

"Employee" means the same as in the Internal Revenue Code.

"Husband and wife" means the same as in the Internal Revenue Code.

"Paid or incurred, paid or accrued" means the same as in the Internal Revenue Code.

"Stock" mean the same as in the Internal Revenue Code.

"Shareholder" means the same as in the Internal Revenue Code."

4. By amending the definition of "gross income", "adjusted gross income", and "taxable income" in section 235-1 to read as follows:

"Gross income", "adjusted gross income", "ordinary income", "ordinary loss", and "taxable income" respectively mean the same as gross income, adjusted gross income, ordinary income, ordinary loss, and taxable income as defined and determined under the Internal Revenue Code, except as otherwise provided in this chapter."

5. By amending the definition of "partnership" in section 235-1 to read as follows:

"Partnership" means the same as in the Internal Revenue Code."

6. By amending subsection (c) of section 235-5 to read as follows:

“(c) Deductions connected with income taxable under this chapter shall be allowed, but deductions connected with income not taxable under this chapter shall not be allowed. Deductions from adjusted gross income that are not connected with particular property or income, such as medical expenses, shall be allowed only to the extent of the ratio of the adjusted gross income attributed to this State to the entire adjusted gross income computed without regard to source in the State.

Deductions by individual taxpayers from gross income for alimony and separate maintenance payments under section 215 of the Internal Revenue Code shall be allowed only to the extent of the ratio of gross income attributed to this State to the entire gross income computed without regard to source in this State; provided that as used in this sentence “gross income” means gross income as defined in the Internal Revenue Code, minus the deductions allowed by section 62 of the Internal Revenue Code, other than the deductions for alimony and separate maintenance payments under section 215 of the Internal Revenue Code.

Deductions by individual taxpayers from gross income for pension, profit-sharing, stock bonus plans, and other plans qualified under sections 401 to 409 of the Internal Revenue Code, as such sections are operative for the purposes of this chapter, shall be allowed only to the extent that such deductions are attributed to compensation (including compensation as defined in section 401(j) (5) (C) of the Internal Revenue Code) earned in this State.”

7. By amending subsection (d) of section 235-7 to read as follows:

- “(d) (1) For taxable years ending before January 1, 1967, the net operating loss deductions allowed as carrybacks and carry-overs by the Internal Revenue Code shall not be allowed. In lieu thereof the net operating loss deduction shall consist of the excess of the deductions allowed by this chapter over the gross income, computed with the modifications specified in paragraphs (1) to (4) of section 172(d) of the Internal Revenue Code, and with the further modification stated in paragraph (3) hereof; and shall be allowed as a deduction in computing the taxable income of the taxpayer for the succeeding taxable year.
- (2) (A) With respect to net operating loss deductions resulting from net operating losses for taxable years ending after December 31, 1966, the net operating loss deduction provisions of the Internal Revenue Code shall apply, provided that there shall be no net operating loss deduction carried back to any taxable year ending prior to January 1, 1967.
- (B) In the case of a taxable year beginning in 1966 and ending in 1967, the entire amount of all net operating loss deductions carried back to the taxable year shall be limited to that portion of taxable income for such taxable year which the number of days in 1967 bears to the total days in the taxable year ending in 1967.
- (C) The computation of any net operating loss deduction for a taxable year covered by this subsection shall require the further modifications stated in paragraphs (3), (4), and (5) of this subsection.
- (3) In computing the net operating loss deduction allowed by this subsection

tion there shall be included in gross income the amount of interest which is excluded from gross income by subsection (a), decreased by the amount of interest paid or accrued which is disallowed as a deduction by subsection (e). In determining the amount of the net operating loss deduction under this subsection of any corporation, there shall be disregarded the net operating loss of such corporation for any taxable year for which the corporation is an electing small business corporation.

- (4) A net operating loss carryback shall be limited to each of three taxable years preceding the taxable year of such loss. A net operating loss carryover shall be limited to each of the five taxable years following the taxable year of such loss. No net operating loss carryback or carryover shall be allowed by this chapter if not allowed under section 172 of the Internal Revenue Code.
- (5) The election to relinquish the entire carryback period with respect to a net operating loss allowed under section 172(b) (3) (E) of the Internal Revenue Code shall be operative for the purposes of this chapter, subject to the limitations set forth in paragraph (4) of this subsection; provided that no taxpayer shall make such an election as to a net operating loss of a business where such net operating loss occurred in the taxpayer's business prior to the taxpayer entering business in this State."

8. By repealing section 235-10.

9. Section 235-11 is amended to read as follows:

**"Sec. 235-11 Amortization of certified pollution control facilities.** Subject to other provisions of this chapter, every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility in the manner, for the period, and to the extent set out in section 169 of the Internal Revenue Code of 1954, as amended by section 704 of the Tax Reform Act of 1969 (P.L. 91-172); provided that the amortization deduction shall be available only with respect to a facility (1) the construction, reconstruction or erection of which is completed by the taxpayer after December 31, 1969, or, (2) which is acquired by the taxpayer after December 31, 1969, if the original use of the property commences with the taxpayer after December 31, 1969; provided further that the facility is placed in service by the taxpayer before January 1, 1976.

Any water or air pollution control facility, equipment, or device purchased, constructed, or reconstructed and installed pursuant to rules and regulations adopted by the department of health, or any ordinance, rules, and regulations of any governing body of a county consistent with the rules and regulations of the department of health, shall be certified by the state water or air pollution control agency as being in conformity with the state program or requirements for control of either water or air pollution.

Written notice of election to take the accelerated amortization deduction under this section shall be filed with the department of taxation on or before the filing date of the return for the first taxable year for which the election is made under this section. The notice shall be submitted on the form and in the manner as the department of taxation shall prescribe pursuant to chapter 91.

The taxpayer shall file with the department of taxation at the time of his election the certification of approval for the pollution control facility, equipment, or device issued by the state water or air pollution control agency, whichever is applicable, and such other documents and data relating thereto as the department of taxation may require."

10. By amending subsection (c) of section 235-51 to read as follows:

"(c) If for any taxable year a taxpayer other than a corporation has a net capital gain, then, in lieu of the tax imposed by subsection (a) or (b), there is imposed a tax (if such tax is less than the tax imposed by such subsections) which shall consist of the sum of:

- (1) A tax computed on the taxable income reduced by an amount equal to fifty per cent of the net capital gain, at the rates and in the manner as if this subsection had not been enacted,
- (2) A tax of four per cent of the lesser of:
  - (A) The sum of the long-term capital gains for the taxable year, or
  - (B) The amount of the net capital gain."

11. By repealing sections 235-58, 235-58.1, and 235-58.2.

12. By repealing section 235-60.

13. By amending subsection (d) of section 235-71 to read as follows:

"(d) In the case of a real estate investment trust there is imposed on the taxable income, computed as provided in sections 857 and 858 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: 5.85 per cent if the taxable income is not over \$25,000, and on all over \$25,000, 6.435 per cent; 3.08 per cent on the amount of capital gain which is taxed under section 857(b)(3) (A) of the Internal Revenue Code. In addition to any other penalty provided by law any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2) (A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) of the Internal Revenue Code shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase. The penalty payable under this subsection with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a) of the Internal Revenue Code for such taxable year."

14. By amending section 235-72 to read as follows:

**"Sec. 235-72 Corporations carrying on business in partnership.** Corporations carrying on business in partnership shall be treated in the same manner by this chapter as they are treated by the Internal Revenue Code."

15. By repealing part V.

16. By repealing section 235-91.

17. By amending section 235-92 to read as follows:

**"Sec. 235-92 Returns, who shall make.** For each taxable year, returns shall be made by the following persons to the department of taxation in such form and

manner as it shall prescribe:

- (1) Every person doing business in the State during the taxable year, whether or not he derives any taxable income therefrom. As used in this paragraph "doing business" includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, except personal services performed as an employee under the direction and control of an employer. Every person receiving rents from property owned in the State is classed as "doing business" and shall make a return whether or not he derives taxable income therefrom.
- (2) Every corporation having for the taxable year gross income subject to taxation under this chapter; provided that an affiliated group of domestic corporations may make and file a consolidated return for the taxable year in lieu of separate tax returns in the manner and to the extent, so far as applicable, set forth in sections 1501 through 1505 and 1552 of the Internal Revenue Code of 1954, as amended.
- (3) Every individual, estate, or trust having for the taxable year gross income subject to taxation under this chapter, except as exempted from the filing of a return by regulations of the department.

The department may by regulation excuse the filing of a return by an individual, estate, or trust in cases not coming within paragraph (1), where the gross income and exemptions are such that no tax is expected to accrue under this chapter, or are such that substantially all the tax will have been collected through tax withholdings or at the source."

18. By amending subsection (b) of section 235-101 to read:

"(b) It shall be the duty of every person who is required by section 235-92 to make a return, to report to the department, as to any taxable year governed by the income tax law of 1957, if (1) the amount of taxable income as returned to the United States is changed, corrected, or adjusted by an officer of the United States or other competent authority, or (2) a change in taxable income results from a renegotiation of a contract with the United States or a subcontract thereunder, or (3) a recomputation of the income tax imposed by the United States under the Internal Revenue Code results from any cause, or (4) an amended income tax return is made to the United States. The report shall be made within ninety days after the change, correction, adjustment, or recomputation is finally determined or the amended return is filed, as the case may be, but in any event, even if such change, correction, adjustment, or recomputation has not been finally determined or the ninety days have not elapsed, such person shall make a report thereof to the department at the time of filing his next return under this chapter. The statutory period for the assessment of any deficiency or the determination of any refund attributable to this report shall not expire before the expiration of one year from the date the department is notified by the taxpayer or the Internal Revenue Service, whichever is earlier, of such a report in writing."

SECTION 3. Section 241-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The "entire net income from all sources" shall be determined in the same manner as the "taxable income" of a corporation, as provided by chapter

235, with the following changes and adjustments:

- (1) There is included in gross income interest received upon the obligations of the United States or its possessions, or upon securities issued under the authority of an act of Congress, or upon state, territorial, municipal, county, or other bonds or securities whether or not the income from such obligations, bonds, or securities, is tax free. Section 235-7(a) (1), (6), and (7) do not apply.
- (2) Section 235-3(c), (d), and (e) does not apply.
- (3) In lieu of section 235-4, it is provided that there shall be excluded the gross income from property owned, trade or business carried on, and other sources outside the State.
- (4) Section 235-5 does not apply. The income excluded pursuant to paragraph (3) shall be determined by an allocation and separate accounting. Losses from property owned outside the State and from other sources outside the State shall not be deducted. Reserves shall be allocated to the State by the application of a fraction, the numerator of which consists of the gross income included in determining the "entire net income from all sources" pursuant to this chapter and the denominator of which consists in the gross income similarly ascertained but without regard to whether from sources within or without the State.
- (5) Deductions connected with income which by this chapter is required to be included in the computation of net income shall be allowed, but deductions connected with income which by this chapter is not to be included in the computation of net income shall not be allowed. Section 235-7(e) (1) does not apply.
- (6) One half of such amount of capital gain as, under the Internal Revenue Code, is entitled to the alternative tax treatment, is deductible in the determination of net income.
- (7) Section 166 of the Internal Revenue Code does not apply, except the provisions as to the basis for determining the amount of the deduction for a bad debt. Section 593 of the Internal Revenue Code does not apply. In lieu of the cited sections of the Internal Revenue Code, debts ascertained to be worthless and charged off on the books of the taxpayer within the income year may be deducted, or in the discretion of the department of taxation a reasonable addition to a reserve for bad debts; provided that when satisfied that a debt is recoverable only in part, the department may allow the debt to be charged off in part.
- (8) Federal income taxes upon income derived or received from sources in the State may be deducted.
- (9) In the case of any life insurance company (as defined by the Internal Revenue Code), which is determined to be a financial corporation as defined by this chapter, sections 802, 804, and 818 of the Internal Revenue Code do not apply. The total of the deductions allowed by sections 805 and 812 of the Internal Revenue Code shall not exceed the amount of the required interest, as defined by section 805, subsections (c) and (d), of the Internal Revenue Code.
- (10) In the case of the sale or exchange of a bond, debenture, note, or cer-

tificate or other evidence of indebtedness, section 433(a) and (b) of Public Law 91-172 shall apply.

- (11) Section 582(c) (with respect to bonds, etc., losses and gains of financial institutions) of the Internal Revenue Code shall be operative for the purposes of this chapter."

SECTION 4. If any section, sentence, clause, or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portion of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature declares that it would have passed this Act and each section, sentence, clause, or phrase thereof irrespective of the fact that any one or more other sections, sentences, clauses, or phrases is declared unconstitutional or invalid.

SECTION 5. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are amended to conform with this Act. All acts passed during this Regular Session of 1978, whether enacted before or after the effective date of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 7. This Act shall, upon its approval, apply to taxable years beginning after December 31, 1977; provided that section 235- (1) (2) of Section 2(1) of this Act shall take effect on January 1, 1979 and shall apply to taxable years beginning on or after January 1, 1979.

(Approved June 2, 1978.)

ACT 174

H.B. NO. 1909-78

A Bill for an Act Relating to Interest Payment on Refund of Taxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 40-35, Hawaii Revised Statutes, is amended to read:

**"Sec. 40-35 Payment to State under protest.** Any disputed portion of moneys representing a claim in favor of the State may be paid to a public accountant of the State under protest in writing signed by the person making the payment, or by his agent, setting forth the grounds of protest, in which event the public accountant to whom payment is made shall hold the money paid under protest for a period of thirty days from the date of payment. The director of finance shall, at the request of the public accountant, make an administrative determination of the amount of the payment which is actually in dispute and the

\*Edited accordingly.



amount which is not in dispute. Upon the determination the public accountant shall deposit the amounts not deemed in dispute by the director into the appropriate fund.

Action to recover moneys paid under protest or proceedings to adjust the claim may be commenced by the payer or claimant against the public accountant to whom the payment was made, in a court of competent jurisdiction, within thirty days from the date of payment and in default of bringing the suit or proceeding within the thirty-day period, the money paid under protest shall be deposited into the appropriate account in the treasury of the State by the accountant and the amount deposited shall thereupon become a government realization, provided, that any action to recover payment of taxes under protest shall be commenced in the tax appeal court.

If action to recover the money paid under protest or a proceeding to adjust the claim is commenced within the thirty-day period, the amount paid under protest or determined by the director to be the disputed portion of a claim shall be transmitted by the public accountant to the director, together with the entire or comparable portions of subsequent payments, if any, when and as made with respect to the same claim if made under a protest referring to the original protest for the grounds thereof, but if subsequent payments are made under protest in any other manner these subsequent payments shall be held by the public accountant and treated as if no previous protest had been made. The director shall pay all moneys so transmitted by the public accountant into a fund to be known as the "litigated claims fund" pending the final decision of the cause, which may, if the court is satisfied that subsequent payments were made with respect to the same claim and under the same protest, in the manner above set forth, include the disposition of such subsequent payments. If judgment is rendered in favor of the claimant, the director shall pay the claimant, out of the litigated claims fund, the amount of the judgment. If the amount of money in the litigated claims fund is insufficient or if investment of the litigated claims fund results in a deficit, the general fund of the State shall be liable for the deficiency. Interest at the rate of two per cent a year from the date of each payment under protest shall also be paid out of the general fund of the State on the amount of the payment under protest adjudged to be payable to the claimant[.]; provided that, if the claim is for the recovery of taxes paid under protest, the rate of interest and the overpayment of taxes shall be refunded in the manner provided in section 231-23(d) and (e). The amount to be paid shall be ascertained by the director from a certified copy of the judgment which shall be his authority [and warrant] for making payment to the claimant."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1978.

(Approved June 2, 1978.)

A Bill for an Act Relating to Motor-Bikes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 249-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-1 Definitions.** As used in this chapter and unless a different meaning appears from the context, the following terms shall have the following respective meanings.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, but exclude devices moved by human power or devices used exclusively upon stationary rails or tracks and mopeds.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power, but which is not operated upon rails, but excludes mopeds.

"Antique motor vehicle" means any motor vehicle of the age of thirty-five years or more from the date of manufacture, that is of the original factory specification or restored to the original specifications in an unaltered or un-reconstructed condition, operated or moved over the highway primarily for the purpose of historical exhibition or other similar purposes.

"Truck" means any motor vehicle designed or used primarily for the carriage of property other than effects of the driver or passengers, and includes a motor vehicle to which has been added a box, platform, or other equipment for such carriage.

"Net weight" of a vehicle means the actual weight of the vehicle, as determined on a standard scale, including all equipment and accessories ordinarily attached to and used on the vehicle, and in the case of a motor vehicle, the maximum fuel, oil, and water possible of being carried for its operation; provided, that "net weight" of a new standard equipped vehicle, other than a motor vehicle, means the shipping weight thereof as established by its manufacturer, and "net weight" of a new standard equipped passenger vehicle means the shipping weight thereof as established by its manufacturer, plus one hundred pounds, and "net weight" of a new standard equipped motorcycle, motor scooter, or moped, means the shipping weight thereof as established by its manufacturer, plus thirty pounds, and "net weight" of a new standard equipped truck means the shipping weight thereof as established by its manufacturer, plus two hundred pounds. On initial registration of a standard equipped vehicle, other than a motor vehicle, for which the director of finance has the manufacturer's established weight, the director of finance, in lieu of requiring the vehicle to be weighed and in order to determine the "net weight" thereof, may use such established weight and may require the owner to furnish verification of the factory serial number of the vehicle. On initial registration of standard equipped passenger vehicles, motorcycles, motor scooters, mopeds, and trucks for which the director of finance has the manufacturer's established weights, the director of finance, in lieu of requiring such motor vehicles to be weighed and in order to determine the "net weight" thereof, may use such established weights, adding one hundred

pounds in the case of standard equipped passenger vehicles, thirty pounds in the case of standard equipped motorcycles, motor scooters, and mopeds, and two hundred pounds in the case of standard equipped trucks, and may require the owners to furnish verification of factory serial and engine numbers of such motor vehicles. As to a vehicle for which the manufacturer's weight is not available or whose make and model cannot be determined with reasonable certainty or which has been so altered as to increase or diminish the weight thereof, "net weight" means the actual weight of such vehicle, as determined on a standard scale, including all equipment and accessories originally attached to and used on the vehicle and, in the case of a motor vehicle, the maximum fuel, oil, and water possible of being carried for its operation. In all cases information shall be presented to and in the manner prescribed by the director of finance.

"Director of finance" means the director of finance of each county or of the county concerned, and includes his duly authorized deputies and subordinates.

"Moped" means a device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of one and one-half horsepower (one thousand, one hundred nineteen watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty-five miles per hour; and a direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

"Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels."

SECTION 2. Section 249-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-14 Bicycle and moped tax.** (a) All bicycles and mopeds used for the conveyance of persons shall be subject to an annual tax of \$3 each to be paid by the owners thereof to the director of finance. This tax shall become due and payable on January 1 and shall be delinquent on March 1 of each year; provided that any bicycle or moped initially acquired after November 30 of a calendar year, previously not registered, shall be exempt from taxation until January 1 of the next calendar year, provided that the tax for the next calendar year shall be paid before January 1. Upon receipt of the tax, the director of finance shall number and register each bicycle and moped, for which the tax is paid, in the owner's name and furnish the owner with a metallic tag or decal for each bicycle or moped with number and year marked thereon, charging therefor the sum of 10 cents, which tag or decal shall be attached to the bicycle or moped. On bicycles the decal shall be affixed to the upright post attached to the sprocket facing in the forward direction. On mopeds the decal shall be affixed to the lower portion of the rear fender facing rearward. Upon initial registration by an owner or transferee, the director of finance shall require proof of ownership and require

the owner to furnish verification of the serial number and description contained in the proof of ownership and application for registration. The metallic tags or decals shall be in such form as the director of finance shall from time to time prescribe. It shall be the duty of the council of each county to purchase a sufficient number of such tags or decals.

(b) All taxes collected under this section shall be deposited into the bikeway fund and shall be expended in the county in which the taxes are collected as provided in section 249-17.5."

SECTION 3. Section 249-14.5, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-14.5 New bicycles and mopeds.** All new bicycles and mopeds, otherwise taxable under section 249-14, in stock for purposes of sale shall be exempt from the tax herein provided for; provided that at the time of first sale, the dealer selling the new bicycle or moped shall:

- (1) Require the buyer to complete license application forms furnished by the director of finance;
- (2) Issue a copy of the completed forms to the buyer; and
- (3) Transmit the completed forms to the director of finance with the required tax and fees which he has collected from the buyer.

Upon receipt of the tax, fees, and the completed license application forms, the director of finance shall mail a tag or decal and certificate of registration to the registered owner. Until the tag or decal is received from the county, the bicycle or moped owner shall keep a copy of the completed application form upon his person when riding his bicycle or moped on a public street."

SECTION 4. Section 249-15, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-15 Seizure and sale.** The directors of finance and deputy directors of finance and any person authoritatively acting on behalf of the director of finance or deputy director of finance and all members of the police force of the several districts of the State may seize any bicycle or moped liable to taxation which has no tag or decal affixed as required by section 249-14, and may hold the bicycle or moped for a period of ten days, during which time it shall be subject to redemption by its owner on payment of the tax due and a penalty of 50 cents. All bicycles and mopeds not so redeemed shall be sold by any chief of police or his authorized subordinate, or director of finance or deputy director of finance, at public auction after first giving five days' public notice of the time and place of sale by advertisement in a newspaper published in the district, if any, or by posting notices in at least three public places in the district where the sale is to be held. Sale shall be made for the best price obtainable, which amount shall be forthwith paid over to the director of finance or his deputy, accompanied by a statement containing a description of the bicycles or mopeds, their number, makes, and any other marks of identification. The director of finance or his deputy shall thereupon, after deducting from the amount so received the amount of the tax and penalty due and costs of advertising, pay over to the owners of the bicycles or mopeds any surplus there may be if it is possible to ascertain who the owners are. If at the expiration of ninety days the owners remain unknown, the

surplus shall be paid into the treasury of the county, as a government realization, and all claims to such sums shall be forever barred."

SECTION 5. Section 249-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-16 Duplicate bicycle and moped tags.** In the event that a bicycle or moped tag furnished under section 249-14 is lost, the person to whom it was furnished may obtain a duplicate thereof by presenting to the county director of finance or his deputy the number and registration of the bicycle or moped involved. There shall be charged for the duplicate tag issued the sum of 10 cents."

SECTION 6. Section 249-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 249-17 False tag, bicycle or moped, penalty.** Any person who uses a tag not furnished in accordance with section 249-14, or uses any tag described in such section for two consecutive years, or who counterfeits any such tag or who fraudulently removes such a tag from any bicycle or moped, shall be fined not more than \$500.

SECTION 7. Section 286-2, Hawaii Revised Statutes, is amended by amending the definitions of "bicycle", "motorcycle", "motor scooter", "motor vehicle", and "vehicle" to read:

"Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

"Motorcycle" means every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excludes a farm tractor and a moped.

"Motor scooter" means every motorcycle with a motor which produces not more than five horsepower but excludes a moped.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power but which is not operated upon rails, but excludes a moped.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, but excludes devices moved by human power or devices used exclusively upon stationary rails or tracks; and mopeds.

SECTION 8. Section 286-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

"Moped" means a device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of one and one-half horsepower (one thousand, one hundred nineteen watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty-five miles per hour; and a direct or automatic power drive system which requires no clutch or gear shift operation by

the moped driver after the drive system is engaged with the power unit.

SECTION 9. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definitions of “bicycle”, “motor vehicle”, “motorcycle”, and “vehicle” to read:

- “(4) “Bicycle” means every device propelled solely by human power upon which any person may ride, having two tandem wheels, sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.
- (14) “Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power but not operated upon rails but excludes a moped.
- (15) “Motorcycle” means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excludes a farm tractor and a moped.
- (40) “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, but excludes devices moved by human power or devices used exclusively upon stationary rails or tracks; and mopeds.

SECTION 10. Section 291C-1, Hawaii Revised Statutes, is amended by deleting the definition of “motor-driven cycle” and by inserting the definition of “motor scooter” to read:

- “(16) “Motor scooter” means every motorcycle which produces not more than five horsepower, and excludes a moped.”

SECTION 11. Section 291C-1, Hawaii Revised Statutes, is amended by adding a definition to be appropriately inserted and to read:

“Moped” means a device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineering standards, of one and one-half horsepower (one thousand, one hundred nineteen watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the device unassisted, on a level surface at a maximum speed no greater than thirty-five miles per hour; and a direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

SECTION 12. Section 291C-143, Hawaii Revised Statutes, is amended to read:

“**Sec. 291C-143 Riding on bicycles.** (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereon.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

SECTION 13. Section 291C-145, Hawaii Revised Statutes, is amended to read:

**"Sec. 291C-145 Riding on roadways and bikeways.** (a) Every person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at such time shall ride as near to the right-hand curb or edge of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; except under any of the following situations:

- (1) When preparing for a left turn at an intersection or into a private road or driveway, except where prohibited by official traffic control devices;
- (2) When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or
- (3) When a roadway is designated and signposted to carry traffic in one direction only and has two or more marked traffic lanes, a person operating a bicycle may ride as near to the left-hand curb or edge of such roadway as practicable.

(b) Persons riding bicycles upon a roadway shall ride in single file; provided that upon bicycle lanes and bicycle paths, riding two abreast shall be permitted when such lane or path is of sufficient width to allow riding two abreast unless otherwise prohibited by rule or ordinance adopted by the director of transportation or by the counties.

(c) Whenever a usable bicycle lane has been provided on a highway, any person operating a bicycle at a speed less than the normal speed of traffic moving in the same direction at such time shall ride within such bicycle lane, except that such person may move out of the lane under any of the following situations:

- (1) When overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane;
- (2) When preparing for a left turn at an intersection or into a private road or driveway; or
- (3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

(d) No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal in the event that any vehicle may be affected by the movement.

(e) No person shall operate or ride a bicycle within a bicycle lane in any direction except that permitted of vehicular traffic traveling on the same side of the highway. Upon all bicycle paths of sufficient width and providing for two-way movement of bicycle traffic, bicycles proceeding in opposite directions shall pass each other to the right.

(f) The director of transportation by rule and the counties by ordinance may with respect to bikeways under their respective jurisdictions restrict or prohibit the use of such bikeways by mopeds.

SECTION 14. Section 291C-147, Hawaii Revised Statutes, is amended to read:

**"Sec. 291C-147 Lamps and other equipment of bicycles.** (a) Any bicycle used upon any highway from thirty minutes after sunset until thirty minutes before sunrise shall display a lighted lamp, facing forward, which shall meet the following specifications:

- (1) Emit a white light;
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the front of the bicycle from a distance of at least five hundred feet.

(b) A tail lamp when used on a bicycle shall meet the following specifications:

- (1) Emit a red light; and
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the rear of the bicycle from a distance of at least five hundred feet.

(c) A lamp meeting the specifications of subsections (a) and (b) displayed on the left arm or left leg of the bicycle operator shall be considered to meet the requirements of subsections (a) and (b).

(d) After December 31, 1974, no person shall use any bicycle upon any highway from thirty minutes after sunset until thirty minutes before sunrise unless the bicycle or the operator is equipped with Class A reflectors meeting the specifications of the Society of Automotive Engineers Standard J594d-1970, or an area of reflectorized material, as follows:

- (1) A crystal (white) reflector with a minimum of three square inches in area or six square inches of white reflectorized material on the front facing straight ahead in a position which will not be obstructed at any time when viewed from the front of the bicycle;
- (2) An amber reflector with a minimum of three square inches in area or twelve square inches of amber reflectorized material on each side facing outward;
- (3) Amber reflectors on both front and rear surfaces of all pedals;
- (4) A red reflector with a minimum of three square inches in area facing to the rear in a position which will not be obstructed at any time when viewed from the rear; and
- (5) The requirement of item (2) of this subsection shall not apply to bicycles having a reflectorized finish covering the entire bicycle frame.

(e) After December 31, 1974, no person shall use any bicycle upon the highway unless it is equipped with a bell or any other device, except a siren or a whistle which are prohibited, capable of giving a signal audible for a distance of at least one hundred feet.

(f) A bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement."

SECTION 15. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**"PART \_\_\_\_\_. SPECIAL RULES FOR MOPEDS**

**"Sec. 291C- Definition.** As used in this part "FMVSS" means Federal Motor Vehicle Safety Standard as prescribed in Title 49, Part 571, Code of



Federal Regulations.

**"Sec. 291C- Effect of violations; vicarious responsibility; jurisdiction. (a)**

It is a violation for any person to do any act forbidden or fail to perform any act required in this part, except as otherwise provided by law.

(b) Any negligence, misconduct, or violation of this part by a minor while driving a moped shall be imputed to the parent or guardian having custody of such minor, which person shall be jointly and severally liable with the minor for any damages caused by such negligence or misconduct and any penalty assessed by the courts for such violation.

(c) This part applies to every person driving a moped upon any roadway or highway or any other publicly owned place under the jurisdiction of the State or any county.

**"Sec. 291C- Traffic laws apply to persons driving mopeds.** Every person driving a moped upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under this chapter, except as to the special provisions of this part and except as to those provisions of this chapter which by their nature can have no application.

**"Sec. 291C- Driver's license required. (a)** No person shall drive a moped unless he possesses a valid driver's license of any category listed in section 286-102 or meets the requirements of section 286-105(3).

(b) The driver of a moped shall, upon the demand of a police officer, exhibit his driver's license.

**"Sec. 291C- Driving of mopeds. (a)** No person less than fifteen years of age shall drive a moped.

(b) No person shall drive a moped except while sitting astride the seat, facing forward, with one leg on each side of the moped.

(c) No person shall drive a moped which is carrying any other person nor shall any person other than the driver ride upon a moped.

**"Sec. 291C- Driving mopeds on roadways. (a)** Every person driving a moped upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons driving mopeds upon a roadway shall drive in single file.

(c) No person shall drive a moped on any sidewalk or area intended for use as a sidewalk, nor shall any person drive a moped on any path or other area intended for the exclusive use of pedestrians.

**"Sec. 291C- Driving mopeds on bicycle lanes and paths. (a)** Wherever bicycle lanes are provided on the roadway, moped drivers shall use such bicycle lanes.

(b) The director of transportation by rule nad the counties by ordinance may with respect to bicycle paths under their respective jurisdictions restrict or prohibit the use of such bicycle paths by mopeds. Signs clearly visible to an ordinarily observant person indicating the restriction or prohibition shall be placed along bicycle paths so designated and every moped driver shall obey the directions thereof.

**"Sec. 291C- Speed restrictions on mopeds.** (a) No person shall drive a moped at a speed other than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(b) No person shall drive a moped at a speed greater than thirty-five miles per hour (fifty-eight kilometers per hour).

**"Sec. 291C- Clinging to vehicles, bicycles, etc.** No person driving a moped shall attach himself or the moped to any other vehicle, nor permit the rider of a bicycle, coaster, sled, or toy vehicle or any person on roller skates to be or become attached to the moped or the driver.

**"Sec. 291C- Use of lamps on mopeds.** Every moped moving upon a highway from thirty minutes after sunset until thirty minutes before sunrise and at any other time when there is insufficient ambient light to render clearly discernable persons and vehicles on the highway at a distance of two hundred feet (60.9 meters) ahead shall display a lighted headlamp and tail lamp; provided that every moped upon a highway within a tunnel shall at all times display a lighted headlamp and tail lamp.

**"Sec. 291C- Renting or selling mopeds.** (a) Every person engaged in the retail business of selling or renting mopeds shall provide the person renting or purchasing a moped with a copy of the rules for mopeds as approved by the director of transportation.

(b) Every person renting a moped to another shall keep a record for two years of the registration number of the moped so rented, the name and address of the person to whom the moped is rented, the number of the driver's license of the latter person, and the date and place when and where the driver's license was issued. This record shall be open to inspection by any police officer or the examiner of drivers or his representative.

**"Sec. 291C- Moped equipment requirements.** (a) Every moped offered for sale for use upon, sold for use upon, or used upon the roadways and highways shall be equipped with:

(1) A motor having a maximum power output capability, measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of one and one-half horsepower (one thousand, one hundred nineteen watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty-five miles per hour (fifty-eight kilometers per hour);

(2) A direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit;

(b) The director of transportation by rules and regulations, pursuant to Chapter 91, shall establish criteria which shall comply with approved federal regulations for the following moped equipment: brake system; fuel system components; exhaust system components; steering system; handlebars; wheel rims; fenders; a guard or protective covering for drive belts, chains and rotating com-

ponents; seat or saddle; lamps and reflectors; and equipment controls; speedometer; retracting stand; horn; and identification markings.

**"Sec. 291C- Certification of compliance.** A person engaged in the business of selling mopeds shall provide to the director of finance of the county in which the mopeds are sold a certificate from the moped manufacturer that each class, type or model of moped offered for sale or sold meets the performance and equipment requirements of this part.

**"Sec. 291C- Defacing serial numbers, etc. of mopeds.** No person shall willfully deface, destroy or alter the serial number, a component part number, or identification mark placed on any moped by the manufacturer thereof.

**"Sec. 291C- Unlawful to possess certain mopeds and moped parts.** It shall be unlawful for any person to possess a moped, a moped motor, or any moped part knowing that the serial or identification number placed thereon by the manufacturer has been changed, altered, erased or mutilated."

**"Sec. 291C- Modifying moped motor; violation.** (a) A motor used to power a moped shall not be modified in any manner except as authorized by the motor manufacturer and any such modification shall not increase the power capacity of the motor above one and one-half horsepower.

(b) Violation of this section shall be a petty misdemeanor.

**"Sec. 291C- Moped liability insurance; coverage for damage by rented or leased moped.** Every person who offers a moped for rent or lease shall insure the moped against loss resulting from liability imposed by law for bodily injury, death or property damage suffered by any person other than the owner or operator of the moped arising out of the ownership, maintenance or use of the moped. The moped liability insurance shall have a coverage of not less than \$10,000 per person and \$20,000 per accident.

SECTION 17.† Section 294-4, Hawaii Revised Statutes, is amended by amending paragraph (1) to read as follows:

**"(1) Except as otherwise provided in section 294-5(c):**

(A) In the case of injury arising out of a motor vehicle accident to any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or operator of a moped as defined in section 249-1 who sustains accidental harm as a result of the operation, maintenance, or use of said vehicle, the insurer shall pay, without regard to fault, to such person an amount equal to the no-fault benefits payable to such person as a result of such injury; or

(B) In the case of death arising out of a motor vehicle accident of any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or driver of a moped as defined in section 249-1, who sustains accidental harm as a result of the operation, maintenance, or use of said vehicle, the insurer shall pay, without regard to fault,

†So in original. There is no section 16.

to the legal representative of such person, for the benefit of the surviving spouse and any dependent, as defined in section 152 of the Internal Revenue Code of 1954, of such person, an amount equal to the no-fault benefits payable to such spouse and dependent as a result of the death of such person, subject, however, to the provisions of section 294-2(10).

SECTION 18. If any provision of this Act or the application thereof to any person or circumstance is held unconstitutional, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this chapter without such invalid or unconstitutional provision.

SECTION 19. Statutory material to be repealed is bracketed. Except for Section [15]†, new material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 20. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

ACT 176

S.B. NO. 2581-78

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 514A-82 Contents of bylaws.** The bylaws shall provide for at least the following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (3) Election of a president from among the board of directors who shall

†“15” substituted for 13 to correct apparent clerical error.

\*Edited accordingly.

preside over the meetings of the board of directors and of the association of apartment owners.

- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting from the apartment owners their share of the common expenses.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) Seventy-five per cent of the apartment owners may at any time modify or amend [[ ]the[ ]] bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after [a certificate of occupancy for the project has been issued by the appropriate county agency.] recording of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose.
- (14) A director shall not vote or cast proxy at any board meeting on any issue in which he has a conflict of interest.
- (15) No resident manager of the condominium shall serve on the board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to such meeting, and shall contain at least: the date and time of such meeting, the place of such meeting, the items on the agenda for such meeting, and a standard proxy form authorized by the association, if any.

- (18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only[.] and may designate any person as proxy and may be limited as the apartment owner desires and indicates.
- (19) The resident manager or managing agent, or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the name and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.
- (20) All association and board of directors meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
- (21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- (22) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- (23) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to such meeting.
- [[23]](24) That the minutes of meetings of the board of directors, and association of apartment owners shall be available for examination by apartment owners at convenient hours at a place designated by the board."

SECTION 2. Section 514A-61, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**Sec. 514A-61 Disclosure requirements.** (a) Each developer of a project to this chapter shall prepare and provide to each prospective initial purchaser an abstract which shall contain the following:

- (1) The name and address of the project, and the name, address, and telephone number of the developer or his agent and of the project manager or his agent;
- (2) A breakdown of the annual maintenance fees and the monthly estimated cost for each apartment, revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles;
- (3) A description of all warranties for the individual apartments and the common elements, including the date of initiation and expiration of any such warranties; and if no warranties exist, the developer shall state that no warranties exist;
- (4) A statement of the proposed number of apartments to be used for residential or hotel use in a mixed use project containing apartments for both residential and hotel use; and
- (5) A statement of the extent of commercial or other non-residential development in the project.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

ACT 177

H.B. NO. 1885-78

A Bill for an Act Relating to Circuit and District Judges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 603-3, Hawaii Revised Statutes, is amended as follows:

**"Sec. 603-3 First circuit court judges.** The circuit court of the first circuit shall consist of fifteen judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth judges, respectively."

SECTION 2. Section 604-1, Hawaii Revised Statutes, is amended as follows:

**"Sec. 604-1 Judicial circuits; district judges; sessions.** There shall be established in each of the judicial circuits of the State of Hawaii a district court with the powers and under the conditions herein set forth, which shall be styled as follows:

- (1) For the First Judicial Circuit: The District Court of the First Circuit.
- (2) For the Second Judicial Circuit: The District Court of the Second Circuit.
- (3) For the Third Judicial Circuit: The District Court of the Third Circuit.
- (4) For the Fifth Judicial Circuit: The District Court of the Fifth Circuit.

There shall be appointed one or more district judges for each judicial circuit. The district court of the first circuit shall consist of twelve judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth judge, respectively. One of the district judges shall hear landlord-tenant and small claims matters, provided that when in the discretion of the chief justice of the supreme court the urgency or volume of cases so requires, he may authorize the judge to substitute for or act in addition to or otherwise in place of any other district judge of the district court of the first circuit. The district court of the second circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the third circuit shall consist of three judges, who shall be styled as first, second and third judge, respectively. The district court of the fifth circuit shall consist of one judge. The chief justice may designate a judge in each circuit as the administrative judge for the circuit.

The chief justice may appoint per diem district judges as may be necessary. Such judges shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a district court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days.

## ACT 178

The district courts shall hold sessions at such places in their respective circuits and as often as the respective district judges deem essential to the promotion of justice.

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall become effective upon its approval.

(Approved June 2, 1978.)

## ACT 178

H.B. NO. 2403-78

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-66, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 514A-66 One year limit.** If the final public report is not issued within one year from the date of issuance of the preliminary report, each purchaser shall have a right to a refund of all moneys paid by him; provided that if the final public report is issued after the one-year period and a copy of the final report is delivered to the purchaser either personally or by registered or certified mail with return receipt requested and at the same time the purchaser is notified in writing of his right of refund and cancellation of obligation and the waiver of such right upon his failure to act within a thirty-day period, the purchaser shall have thirty days from the date of delivery of the final report to exercise his right of refund and cancellation of obligation, after which period such right shall be deemed waived."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

## ACT 179

S.B. NO. 1824-78

A Bill for an Act Relating to Counseling Services for Minors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding the following Section to be appropriately designated and to read as follows:

**"Sec. - Alcohol or drug abuse relating to minors; diagnosis, counseling, and related activities.** (a) A counselor, certified, licensed, or otherwise

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\*Edited accordingly.



authorized by law to engage in the practice of counseling services in either or both the public and private sector, may inform the spouse, parent, custodian, or guardian of any minor who requests, is referred for, or received counseling services relating to alcohol or drug abuse.

(b) If a minor consents to receive counseling services for alcohol or drug abuse, the spouse, parent, custodian, or guardian of the minor shall not be liable for the legal obligations resulting from the furnishing of such counseling services provided by the counselor. A minor who consents to the provision of counseling services under this section shall assume financial responsibility for the costs of such services, if any.

(c) Notwithstanding any other law to the contrary, no spouse, parent, custodian, or guardian, whose consent has not been obtained or who has no prior knowledge that the minor has consented to the provision of such counseling services for alcohol or drug shall be liable for the costs incurred by virtue of the minor's consent.

(d) Notwithstanding any other law to the contrary, any action to recover any debt founded upon any contract, obligation or liability under this section shall not commence until a minor has reached the age of majority; provided that said action shall commence within two years of date a minor reaches the age of majority.

(e) The consent to the provision of furnishing counseling services for alcohol or drug abuse by the counselor when executed by a minor who is or professes to suffer from alcohol or drug abuse, shall be valid and binding as if the minor had achieved his majority; that is, the minor who is or professes to suffer from alcohol or drug abuse, shall be deemed to have, and shall have the same legal capacity, the infancy of the minor and any contrary provisions of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority; and the consent of no other person (including but not limited to a spouse, parent, custodian, or guardian) shall be necessary in order to authorize such counseling services to such a minor.

(f) In the provision of counseling services for alcohol or drug abuse, the counselor shall seek to open the lines of communication between the minor and the spouse, parent, custodian, or guardian; provided such action is deemed beneficial in achieving the desired counseling objectives.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

A Bill for an Act Relating to Improvement by Assessment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read:

**“Sec. 46- Reserve funds for payment of improvements.** Any other law to the contrary notwithstanding, no county with a population of less than 100,000 persons shall impose or collect any ad valorem assessment to establish, maintain, or replenish a reserve fund. As used in this section, “reserve fund” means any fund established by a county to provide security, in addition to any special fund made up of moneys collected on account of assessments and interest for improvements, for the payment of principal and interest on bonds issued for such improvements where moneys in the special fund are insufficient for this purpose. The provisions of this section shall not prevent any county from imposing or collecting an ad valorem assessment to establish, maintain, or replenish a reserve fund for an improvement by assessment district in existence on the effective date of this section.”

2. By amending section 46-80 to read:

**“Sec. 46-80 Improvement by assessment; financing.** Any county having a charter may enact an ordinance, and may amend the same from time to time, providing for the making and financing of improvement districts in the county, and such improvements may be made and financed under such ordinance. The county may issue and sell bonds to provide funds for such improvements. Bonds issued to provide funds for such improvements may be either bonds when the only security therefor is the properties benefited or improved or the assessments thereon or bonds payable from taxes or secured by the taxing power of the county. If the bonds are secured only by the properties benefited or improved or the assessments thereon, the bonds shall be issued according and subject to the provisions of the ordinance. If the bonds are payable from taxes or secured by the taxing power, the bonds shall be issued according and subject to chapter 47. Any other law to the contrary notwithstanding, in assessing land for improvements a county shall assess the land within an improvement district according to the special benefits conferred upon the land by the special improvement; these methods include assessment on a frontage basis or according to the area of land within an improvement district, or any other assessment method which assesses the land according to the special benefit conferred, or any combination thereof.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

ACT 181

H.B. NO. 592

A Bill for an Act Relating to Exemptions from Income Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-54, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

\*Edited accordingly.

“(c) A blind person, a deaf person, and any person totally disabled, in lieu of the personal exemptions allowed by the Internal Revenue Code, shall be allowed, and there shall be deducted in computing the taxable income of a blind person, a deaf person, or a totally disabled person, instead of the exemptions provided by subsection (a), the amount of \$7,000.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1977.

(Approved June 2, 1978.)

ACT 182

H.B. NO. 2118-78

A Bill for an Act Relating to Soliciting, Peddling, and Disorderly Conduct.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 711-1101, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of disorderly conduct if, with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, he:

- (a) Engages in fighting or threatening, or in violent or tumultuous behavior; or
- (b) Makes unreasonable noise; or
- (c) Makes any offensively coarse utterance, gesture, or display, or addresses abusive language to any person present, which is likely to provoke a violent response; or
- (d) Creates a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit; or
- (e) Impedes or obstructs, for the purpose of begging or soliciting alms, any person in any public place or in any place open to the public.”

SECTION 2. Section 445-141, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 445-141 Fees; exceptions.** Except as otherwise provided, the fee for license to peddle merchandise shall be as follows:

The fee for an annual license shall be \$25 and the fee for a monthly license or for a period less than one month shall be \$5. No license shall be required of persons peddling fish, fresh fruit, leis, flowers, or vegetables, nor of any person who has reached the age of sixty years.

A license to peddle merchandise authorizes the holder thereof to peddle only in the county which is named in the license.

\*Edited accordingly.

Each council shall enact ordinances not inconsistent with any law regulating the conduct of the business of all persons licensed under this section, prohibiting the impeding or obstructing, with the intent to physically inconvenience the general public or any member thereof in any public place or in any place open to the public."

SECTION 3. Section 467B-9 is amended to read as follows:

**"Sec. 467B-9 Prohibited acts.** (a) No person shall for the purpose of soliciting contributions from persons in the State use the name of any other person except that of an officer, director or trustee of the charitable organization by or for which contributions are solicited, without the written consent of the other persons.

(b) A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if the latter person's name is listed on any stationery, advertisement, brochure or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

(c) No charitable organization or professional fund raiser soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

(d) No person shall, in connection with the solicitation of contributions for or the sale of goods or services of a person other than a charitable organization, misrepresent or mislead anyone by any manner, means, practice or device whatsoever, to believe that the person on whose behalf the solicitation or sale is being conducted is a charitable organization or that the proceeds of the solicitation or sale will be used for charitable purposes, if that is not the fact.

(e) No professional solicitor shall solicit in the name of or on behalf of any charitable organization unless the solicitor

(1) has written authorization of two officers of such organization, a copy of which shall be filed with the director; the written authorization shall bear the signature of the solicitor and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date of issuance; and

(2) has the authorization with him when making solicitations and exhibits the same on request to persons solicited or police officers or agents of the department.

(f) No charitable organization, professional fund-raising counsel or professional solicitor subject to this chapter, shall use or exploit the fact of registration so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by the State of the purposes or goals for the solicitation by the organization; provided that the use of the following statement shall not be deemed a prohibited exploitation: "Registered with the State of Hawaii department of regulatory agencies as required by law. Registration does not imply endorsement of a public solicitation for contributions."

(g) No person shall, in soliciting contributions or the sale of goods for a

charitable organization or other entity governed by this chapter, impede or obstruct, with the intent to physically inconvenience the general public or any member thereof in any public place or in any place open to the public.”

SECTION 4. Statutory material to be repealed in bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

ACT 183

H.B. NO. 2416-78

A Bill for an Act Relating to the Hawaii Agricultural Cooperative Associations Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 421-18, subsection (b), Hawaii Revised Statutes, is amended to read as follows:

“(b) Damages for breach; effect upon membership status of association members.

- (1) The contract may fix, as liquidated damages, which shall not be regarded as penalties, specified sums to be paid by the members to the association upon the breach of any provision of the contract, regarding the use of any facilities of the association or the sale, delivery, handling, or withholding of products; and may further provide that the member who breaks his contract shall pay all costs including premiums for bonds, and reasonable attorney’s fees, to be fixed by the court, in case the association prevails in any action upon the contract.
- (2) Any member who breaches any provision of the contract with the association shall be subject to removal from the association including the forfeiture of all rights and privileges pertinent to membership in the association as may be provided for in the by-laws of the association. In the absence of any provision in the association’s by-laws relating to the removal of members, removal may occur by majority vote of the board of directors. Any member so removed shall be entitled to reapply for membership including the reinstatement of all such rights and privileges as may have been previously forfeited subject either to (A) any provision in the association’s by-laws relating to readmission, or (B) in the absence of such provision, by majority vote of the board of directors at the time readmission is sought.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

\*Edited accordingly.

## ACT 184

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

## ACT 184

H.B. NO. 2728-78

A Bill for an Act Relating to Compensation of Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 77-10, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 77-10 Promotions, demotions, reallocations, and assignments; rules.**

The state director or the county commissions shall adopt rules to provide for adjustments and changes in compensation in the event of promotions, temporary promotions and assignments, demotions, and for the purpose of implementing section 77-12. In the case of promotions, reallocations or temporary assignments to higher grades, the rules shall provide that the employee shall receive no less than (1) the rate of the next higher step of his existing pay range, if his existing rate is on a step, or (2) his existing rate added to the dollar difference between the steps above and below his existing rate, if his existing rate is in-between steps of his existing pay range. The rules may provide methods of pay adjustment, if applicable, for employees who are at or above the maximum step of his existing pay range; provided that in no event may an employee's compensation be increased to an amount which will exceed the highest pay step of the higher pay range. The employee's service anniversary date shall not change. The rules shall be adopted only after joint conference of the state director and all county commissions and shall be uniformly applied and interpreted throughout the State and the several counties. The rules shall give proper consideration to merit principles of employment and due recognition to length of service in the event of demotions resulting from physical conditions. No rule shall be applied in any way in violation of sound merit principles."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act, upon its approval, shall take effect retroactive to July 1, 1977.

(Approved June 2, 1978.)

## ACT 185

H.B. NO. 2784-78

A Bill for an Act Relating to the Uniform Limited Partnership Act, Chapter 425, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*Edited accordingly.

SECTION 1. The purpose of this Act is to enable a limited partnership to hold title to property in its own name.

SECTION 2. Chapter 425, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 425- Limited Partnership Property.**

- (1) All property originally brought into the limited partnership stock or subsequently acquired by purchase or otherwise, on account of the limited partnership, is property of the limited partnership.
- (2) Unless the contrary intention appears, property acquired with limited partnership funds is property of the limited partnership.
- (3) Any estate in real property may be acquired in the name of the limited partnership. Title so acquired can be conveyed only in the name of the limited partnership.
- (4) A conveyance to a limited partnership in the name of the limited partnership, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

**ACT 186**

**H.B. NO. 2937-78**

**A Bill for an Act Relating to the Oahu Metropolitan Planning Organization.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 279E-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 279E-5 Staff and funding.** Each MPO shall have a full-time staff independent of state and county agencies. The MPO policy committee shall appoint all members of the staff, none of whom shall be subject to chapters 76 and 77. All other benefits generally applicable to the officers and employees of the State shall apply to staff members of the MPO and be retroactive to the effective date of initial hiring for existing staff. Nothing herein shall be deemed to prohibit the MPO from utilizing, through contractual arrangements, the staff resources of other local agencies, state agencies, and other quasi-public or private organizations to assist the MPO in its functions.

During the remainder of fiscal year 1975 and during fiscal year 1976 each such MPO is authorized to have not less than the equivalent staff positions authorized for the present organizations responsible for metropolitan transportation planning and designated in accordance with the provisions of 23 U.S.C. 134.

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\*Edited accordingly.

## ACT 187

There is established in the state treasury for the department of transportation a revolving fund of \$30,000 to be known as the OMPO revolving fund which shall be administered by the director of transportation. The moneys in the fund shall be appropriated from the highway fund, and may be expended by the Oahu Metropolitan Planning Organization for its operation. The OMPO revolving fund shall be replenished when OMPO receives reimbursements from federal agencies."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1978.)

## ACT 187

H.B. NO. 3045-78

A Bill for an Act Relating to Grants-In-Aid to County or State Agencies for Eligible Water Pollution Control Facilities and Plans, Concepts and Projects Related to such Eligible Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342-34, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-34 Treatment works; construction grants.** The director may make grants to any state or county agency of state funds as authorized and appropriated by the legislature for the construction of necessary treatment works and for other projects intended for wastewater reclamation or wastemanagement by other than conventional means to prevent or to control the discharge of untreated or inadequately treated sewage or other waste into any state waters. He shall coordinate the granting of state funds with available federal funds for the same purpose. No grant shall be made for any project unless (1) the project conforms with the state water pollution control plan, and (2) the project is certified by the director as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs, and, in the case of treatment works, (3) the application for the grant contains reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the treatment works after its construction. If federal funds are available, the applicant shall be required to pay sixty per cent of the non-federal share of the estimated reasonable cost of such approved treatment works as defined by PL 92-500. If federal funds are not available, the director may make grants up to one hundred per cent of the estimated reasonable cost of the project."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

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\*Edited accordingly.



SECTION 3. This Act shall take effect upon its approval.  
(Approved June 2, 1978.)

ACT 188

H.B. NO. 610

A Bill for an Act Relating to Traffic Control Near Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 52, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 52- Traffic control surrounding school premises.** (a) The chief of police of each county shall have charge, direction, and control of all matters relating to preserving and protecting the public health, safety, and welfare on and about the streets surrounding any school premises and to perform this function shall appoint, train, and compensate traffic monitors to perform such duties as he directs. Nothing contained herein shall be construed to diminish the role now performed by the Junior Police Officer program.

(b) The traffic monitors of the respective counties shall be provided with suitable badges or insignia of office, and shall have the duty to assist police officers throughout the State in all matters relating to the enforcement of traffic regulations on and about the streets surrounding any public school premises.

(c) The term traffic monitor means all persons over the age of eighteen who are appointed, trained, and compensated by the chief of police of each county to perform duties under this section whether called traffic monitors or by any other name or title."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.  
(Approved June 2, 1978.)

ACT 189

S.B. NO. 2005-78

A Bill for an Act Relating to Farm Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 19, Special Session Laws of Hawaii 1977, is amended by adding a new section to read as follows:

**"SECTION 3.5** There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000, or so much thereof as may be necessary, for the purposes of making farm loans to independent sugar growers as provided in section 2 of this Act. The sum appropriated shall be expended by the department

\*Edited accordingly.

of agriculture for the purposes of this Act. All sums appropriated under this section which are not expended or encumbered twenty-four months after the effective date of this Act shall lapse.”

SECTION 2. Act 19, Special Session Laws of Hawaii 1977, is amended by amending section 2 to read as follows:

“SECTION 2. In addition to any loans under Section 1 of this Act the department of agriculture shall make loans to independent sugar growers as provided in this Section. As used in this section, “independent sugar grower” means a grower of raw sugar, testing 96 sugar degrees by the polariscope, determined in accordance with regulations of the United States Department of Agriculture; provided that this term shall not include any producer of sugar, other than as a member of a processing cooperative, who processes his own sugar cane; provided further that as to the grower, sugar production shall not exceed 3,000 tons per year.

The department of agriculture shall make loans to independent sugar growers under this section at an interest rate not to exceed two per cent per year for which no collateral shall be required and there shall be no limit on the amount of a loan to the independent sugar growers as defined herein. The loans shall be made to independent sugar growers upon such terms as provided by rules adopted by the department of agriculture under chapter 91, Hawaii Revised Statutes. The loans shall be administered by the farm loan division of the department of agriculture. In making such loans the department of agriculture shall follow the intent of the legislature that loans made under this section are to assist independent sugar growers with supplemental direct loans to cover deficits through this time period in which there are insufficient national protections concerning sugar importation. The term deficit as used herein shall include (1) any shortages for repayment of loans made by commercial lending institutions for crop production expenses which shall be repaid from revenues of sugar crop harvest and (2) that portion of the total loan required for production expenses, but which amount is not available from commercial lending institutions without requiring collateral other than the crop itself, for crop plantings over the next 24 months. Loans shall be made under this section from appropriations in section 3 of this Act for a period of not more than twenty-four months after July 5, 1977. Loans shall be made under this section from appropriations in section 3.5 of this Act for a period of not more than twenty-four months after the effective date of this Act.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

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\*Edited accordingly.

ACT 190

S.B. NO. 2279-78

A Bill for an Act Relating to Farm Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 155-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The lender may, for satisfactory cause and at its discretion, extend the time within which the installments of principal may be paid for a period not to exceed two years; provided that the lender may further extend the time beyond the said two years for an additional period not to exceed 3 years if the borrower is in a state of extreme financial hardship which is caused by factors beyond his control, which factors include, but not limited to, the following: depressed prices, extended poor weather conditions, persistent crop failures, and rapidly increasing production costs not accompanied by a corresponding increase in the crop price.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

ACT 191

H.B. NO. 2837-78

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-36, Hawaii Revised Statutes, is amended to amending subsection (b) to read as follows:

“(b) The board may, from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease, (1) modify or eliminate any of the foregoing restrictions, or (2) extend or modify the fixed rental period of the lease, or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State of Hawaii, and their respective successors and assigns or to qualify the lessee for any State loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in

\*Edited accordingly.

## ACT 192

the State; provided[, ] further[, ] that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) The rental shall not be less than the rental for the preceding term;
- (4) The rules and regulations of the board, setting forth any additional terms and conditions which will insure and promote the purposes of the demised lands."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

## ACT 192

H.B. NO. 2934-78

A Bill for an Act Relating to Permits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow vehicles transporting sugar cane on private cane haul roads to cross public highways and roads without a permit for such crossings, as presently required by the state department of transportation.

SECTION 2. Section 291-36, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291-36 Exceptions.** (a) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may, upon application in writing, issue a written permit authorizing the applicant to operate or move a vehicle or combination of vehicles, self-propelled construction or farm equipment, or special mobile equipment of dimensions or weights, including loads or both, which exceed the limits set in sections 291-34 and 291-35.

(b) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may issue a permit authorizing the applicant to operate vehicles or combinations of vehicles which exceed the limits set forth in section 291-35 when carrying products from the place where they are harvested or stored to the place where they are processed or used.

(c) The application for any such permit shall specifically describe the vehicle or combination of vehicles, the self-propelled construction or farm equipment, the load to be operated or moved, the particular highways over which the permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(d) The director of transportation or county engineer may if he determines that adequate precautions will be taken to protect persons and property issue the permit and may in the permit limit the number of trips, establish seasonal or other time limitations during which the permit is valid, prescribe conditions as to route, equipment, speed, escort vehicles, safety measures, or otherwise limit or prescribe conditions of operation under such permit to assure against injury to person and undue damage to the road foundations, surfaces, or structures. The issuing authority may also require such undertaking or other security as may be deemed necessary to protect the highways and bridges from damage, or to provide indemnity for any injury resulting from such operation. The permit shall be valid for the period specified or unless sooner revoked by the issuing authority.

(e) Every such permit shall be carried in the vehicle or combination of vehicles or the self-propelled construction or farm equipment to which it refers and shall be open to inspection of any peace officer or traffic officer or employee charged with the care or protection of the highways[.]; provided that in the case of annual permits, this requirement may be met where a copy of the permit is carried in the vehicle, and the original permit is readily available for inspection from the operator's offices in the county of issuance.

(f) The owner of any vehicle or combination of vehicles or self-propelled construction or farm equipment found operating in violation of the terms or conditions of any permit or over sections of the highway not covered by the permit shall be subject to the penalties provided in section 291-37.

(g) The restrictions of sections 291-34 and 291-35 shall not apply to the operation of motor vehicles on roads now under the control of the counties where a private individual or corporation actually maintains the county road or roads under an agreement in writing filed with the respective county or city council. The agreement shall also provide that the individual or corporation shall repair all damages caused to such roads by vehicles or other self-propelled equipment belonging to or under the control of the individual or corporation and upon failure of the individual or corporation to repair such road or roads as provided in such agreement, the county may repair such damages and charge the cost thereof to and collect the same from the individual or corporation.

(h) Nothing in this chapter shall prevent motor vehicles with a width of greater than nine feet, including load, from crossing any public road, street, or highway within the State.

(i) No provision herein shall be so construed as to prevent the passage of ordinances by any county which impose restrictions more severe in nature.

(j) A fee of \$2.50 shall be charged for each per trip permit or \$25 for each per annual permit issued by the director of transportation [or the county engineer] and such fee shall be deposited in the state [or respective county's] account for special funds for highways.

(k) Notwithstanding any law to the contrary, no permit shall be required for any vehicle or combination of vehicles used in agricultural operations or activities which only crosses any public road, street, or highway within the State at locations approved by the director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets; provided that:

- (1) The owners of vehicles transporting agricultural products and equipment shall construct and maintain structurally suitable pavement sections at each crossing;
- (2) These owners shall provide for the cleaning and removal of all debris and mud generated by their operation;
- (3) The maximum length of vehicles transporting agricultural products shall be limited to not more than eighty feet; and
- (4) The maximum length of vehicles, including load, used in transporting agricultural equipment shall be limited to not more than one hundred feet."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

## ACT 193

H.B. NO. 559

A Bill for an Act Relating to Firefighter's Pensions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of "firefighters" to read:

"Firefighters": all regularly employed members of the State or of the fire departments of the counties, whose principal duties are to prevent and fight fires."

SECTION 2. Section 88-102, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-102 Classification of members.** The board of trustees shall classify each member in one of the following groups:

- (1) Group 1. General employees of the State, including administrative, clerical, professional, and technical workers, mechanics, laborers, and all others not otherwise classified;
- (2) Group 2. Teachers, including all teachers regularly engaged in public education whose salaries are wholly or partly paid by the State;
- (3) Group 3. General employees of the counties, including administrative, clerical, professional, and technical workers, mechanics, laborers, and all others not otherwise classified;
- (4) Group 4. Police officers in the employ of the counties and firefighters in the employ of the State or of the counties; or in any other group which may be recommended by the actuary on the basis of service and mortality experience and approved by the board, to cover any part of any group or groups previously created or any additional class of employees."

SECTION [3].† New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION [4].† This Act shall take effect upon its approval.

(Approved June 3, 1978.)

ACT 194

H.B. NO. 630

A Bill for an Act Relating to Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii.*

SECTION 1. Section 87-1, Hawaii Revised Statutes is amended to read as follows:

**“Sec. 87-1 Definitions.** As used in this chapter:

- (1) “Board” means the board of trustees as described in section 87-11;
- (2) “Carrier” means a voluntary association, corporation, partnership, or organization engaged in providing, paying for, arranging for, or reimbursing the cost of health services under group insurance contract or medical, hospital, or dental services agreements;
- (3) “Contributions” means money payments made to the fund by the State or the several counties or an employee-beneficiary;
- (4) “Dependent-beneficiary” means an employee-beneficiary’s spouse and any unmarried child, including an adopted child, stepchild, foster child, or recognized natural child who lives with the employee-beneficiary, deemed eligible by the board to receive health or dental services of a health benefits plan;
- (5) “Employee” means an employee or officer of the state or county government,
  - (A) Including:
    - (i) A regularly employed member of the faculty of the University of Hawaii, including a research worker, an extension agent, or a person engaged in instructional or administrative work of the university;
    - (ii) A regularly employed administrative officer, principal, vice-principal, teacher, special teacher, cafeteria manager, or cafeteria worker of the public schools;
    - (iii) A apprentice or on-the-job trainee whether or not supported by any federal grant;
    - (iv) An elective officer including a member of the legislature during his term of office, or a person who has served as a member of the legislature for at least a total of ten years;
    - (v) A probationary employee;
    - (vi) A per diem employee;

†Numbers “3” and “4” substituted for “2” and “3” to correct manifest clerical error.

\*Edited accordingly.

- (vii) An officer or employee under an authorized leave of absence;
  - (viii) An employee of the Hawaii national guard although paid from federal funds; [and]
  - (ix) A retired member of the employees retirement system, the county pension system or the police, firefighters, or bandsmen pension system of the State or county; and
  - (x) A salaried and full-time member of a board or commission appointed by the governor;
- (B) But excluding:
- (i) A designated beneficiary of a retired member of the employees retirement system, the county pension system or the police, firefighters, or bandsmen pension system of the State or county;
  - (ii) A person employed temporarily on a fee or contract basis;
  - (iii) A person [hired on a part-time, limited-term, or provisional basis:] employed for less than three months and whose employment is less than one-half of a full-time equivalent position;
  - (iv) A non-salaried and non-full time member of a board, commission, or agency appointed by the governor, or mayor, or chairman of the State or County, respectively; and
  - (v) An employee of the legislature other than a member of the permanent staff;
- (6) "Employee-beneficiary" means an employee, the beneficiary of an employee who is killed in the performance of his duty, an employee who retired prior to the establishment of the fund, or the beneficiary of a retired member of the employees retirement system, a county pension system, or a police, firefighters, and bandsmen pension system of the State or county, upon the death of the retired member and, which beneficiary, if a child, does not marry, or if a surviving spouse, does not remarry; provided that for the purposes of this [subsection.] paragraph, "family member" means the deceased retired member's or employee's spouse and unmarried child under the age of nineteen years (including a legally adopted child and a stepchild or recognized natural child who lives with the deceased retired member or employee in a regular parent-child relationship), or unmarried child regardless of age who is incapable of self-support because of a mental or physical incapacity which existed prior to his reaching the age of nineteen years; and provided further that the employee, his beneficiary, or the beneficiary of the deceased retired member is deemed eligible by the board to receive health or dental services of a health benefits plan;
- (7) "Fund" means the trust fund as described in section 87-2;
- (8) "Health benefits plan" means (A) a group insurance contract or medical, hospital, or dental service agreement in which a carrier agrees to provide, pay for, arrange for, or reimburse the cost of health or dental services as determined by the board; or (B) a similar schedule of



benefits established by the board and provided through the fund on a noninsured basis;

- (9) "Periodic charge" means the periodic payment by the board to a carrier for any health benefits plan; and
- (10) "Trustee" means a trustee of the board of trustees as described in section 87-11."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect on July 1, 1978.

(Approved June 3, 1978.)

ACT 195

H.B. NO. 704

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 87-4 State and county contributions to the fund.** The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [~~\$10~~] \$11 for each of their respective employee-beneficiaries and [~~\$30~~] \$34.50 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan, provided, that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall be [~~\$30~~] \$34.50 for both of them.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$3.74 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the payment of group life insurance benefits for each employee.

The several counties through their respective departments of finance shall annually reimburse the State no later than December 30 of each fiscal year for their respective pro rata share of the cost of administering the fund for the fiscal year for the benefit of their employee-beneficiaries and dependent-beneficiaries.

Each county's pro rata share shall be determined by allocating the amount appropriated for administering the fund for the fiscal year, after excluding therefrom state and county contributions for hospital, medical and surgical benefits, dental benefits and group life insurance benefits, in the same proportion as the aggregate annual amount of state and county contributions for such benefits as of October 31 of the preceding fiscal year. The amount of any excess or deficiency required to administer the fund shall be subtracted from or added to, as the case may be, the amount due from each county for the succeeding fiscal year.

Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

**SECTION 2.** There is hereby appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance the sum of \$860,100 or so much thereof as may be necessary to fund the State's share of the increase in the employer contributions authorized by this Act.

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

**SECTION 4.** This Act shall take effect on July 1, 1978.

(Approved June 3, 1978.)

**ACT 196****H.B. NO. 1994-78**

A Bill for an Act Relating to Collective Bargaining.

**SECTION 1.** Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to the powers and functions provided in other sections of this chapter, the board shall:

- (1) Establish procedures for, investigate, and resolve, any dispute concerning the designation of an appropriate bargaining unit and the application of section 89-6 to specific employees and positions;
- (2) Resolve any dispute concerning cost items;
- (3) Establish procedures for, resolve disputes with respect to, and supervise the conduct of, elections for the determination of employee representation;
- (4) Conduct proceedings on complaints of prohibited practices by employers, employees, and employee organizations and take such actions with respect thereto as it deems necessary and proper;
- (5) Hold such hearings and make such inquiries, as it deems necessary, to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel

attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any person appointed by the board for the performance of its functions;

- (6) Establish, after reviewing nominations submitted by the public employers and employee organizations, lists of qualified persons, broadly representative of the public, to be available to serve as mediators, members of fact-finding boards, or arbitrators;
- (7) Establish daily or hourly rates at which mediators, members of fact-finding boards, and arbitrators serving pursuant to paragraph 3 of subsection 89-11(b) are to be compensated and apportion the costs of arbitration to the parties involved;
- (8) Conduct studies on problems pertaining to public employee-management relations, and make recommendations with respect thereto the legislative bodies; request information and data from state and county departments and agencies and employee organizations necessary to carry out its functions and responsibilities; make available to the public management committee, employee organizations, as may exist, mediators, members of fact-finding boards, arbitrators, and other concerned parties statistical data relating to wages, benefits, and employment practices in public and private employment to assist them in resolving issues in negotiations;
- (9) Promulgate rules and regulations relative to the exercise of its powers and authority and to govern the proceedings before it in accordance with chapter 91."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

## ACT 197

H.B. NO. 2729-78

A Bill for an Act Relating to Public Officers and Employees Excluded from Collective Bargaining.

SECTION 1. The purpose of this Act is to replace section 78-18.5, Hawaii Revised Statutes, by adding a new chapter with substantive change in the procedures established initially under section 78-18.5 for adjusting the compensation, hours, terms, and conditions of employment, and other benefits for public officers and employees excluded from collective bargaining coverage under chapter 89.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER PUBLIC OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING

**Sec. -1 Purpose.** The legislature finds that existing statutes do not permit the chief executives of the State and counties, the board of education, the board of regents and the chief justice of the supreme court sufficient flexibility to make appropriate and timely adjustments in the compensation, hours, terms and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining coverage under chapter 89. To this end, the legislature grants to the respective chief executives, the board of education, the board of regents and the chief justice, the authority to make such adjustments for officers and employees excluded from collective bargaining in conformance with this chapter.

Nothing in this chapter shall be construed to interfere with or diminish any authority already provided by statutes to the chief executives, the board of education, the board of regents or the chief justice.

**Sec. -2 Adjustments authorized; limitations, restrictions.** Any provision of law to the contrary notwithstanding, the compensation, hours, terms and conditions of employment, and other benefits for public officers and employees, who are excluded from collective bargaining, shall be adjusted by the chief executives of the State or counties, the board of education, the board of regents, or the chief justice, as applicable. The chief executives, the board of education, the board of regents and the chief justice, or their designated representatives, shall determine the adjustments to be made and which excluded officers or employees are to be granted adjustments under this chapter, in accordance with the following guidelines and limitations:

- (1) For excluded officers and employees under the same compensation plans as officers and employees within collective bargaining units, such adjustments shall be not less than those provided under collective bargaining agreements for officers and employees hired on a comparable basis, except that adjustments in compensation shall be within limits set forth in paragraphs (2) and (3).
- (2) For officers and employees covered by chapters 77 and 297, no adjusted compensation shall exceed ninety-five per cent of the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the head of a department of the State. To promote the uniform administration of compensation under chapters 77 and 297, the foregoing limitation shall apply uniformly\* to all officers and employees throughout the State covered by chapters 77 and 297, whether or not the officer or employee is employed by the State or a county government. Any officer or employee, who is receiving a salary in excess of the limitation provided herein on the effective date of this Act, shall continue to receive the salary so long as he remains in the same position or until such time as the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the

head of a department of the State is sufficiently increased to authorize adjustments to the officer's or employee's salary.

- (3) For officers and employees covered by chapter 304, no adjusted compensation shall exceed ninety-five per cent of the compensation paid to the president of the University of Hawaii under section 26-52(2); provided that an officer or employee who is receiving on the effective date of this chapter a salary in excess of ninety-five per cent of the salary paid to the president of the University of Hawaii, shall continue to receive the salary so long as he remains in the same position or until such time as the salary of the president is sufficiently increased to authorize adjustments to the officer's or employee's salary.
- (4) No adjustment in compensation, hours, terms and conditions of employment, or other benefits shall be established which is in conflict with the system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment conduct, movement, and separation of public officers and employees.
- (5) The compensation of officers or employees whose salaries presently are limited or fixed by legislative enactment shall not be adjusted under this chapter, but shall continue to be adjusted by the appointing authority within limits established by law or by legislative enactment.
- (6) The compensation of officers or employees, who are not covered under the same compensation plans as officers and employees within collective bargaining units and whose salaries presently are authorized to be fixed by the appointing authority, need not be adjusted under this chapter. The appointing authority may continue to make specific adjustments in the salaries of individual officers or employees from available funds appropriated for such purpose within limits set forth in paragraphs (2) and (3) of this section.

**Sec. -3 Adjustments for officers and employees covered by chapter 77.**

The directors of personnel services of the State and counties who shall serve as representatives of their respective chief executives and the administrative director of the courts who shall serve as the representative of the chief justice, shall decide by majority vote on the adjustments to be made under this chapter for officers and employees covered under chapter 77. Such adjustments and their effective dates shall be uniform among the jurisdictions.

**Sec. -4 Adjustments for other officers and employees.** (a) The respective representatives of the State, counties and the judiciary shall submit to their respective chief executives and to the chief justice, recommendations on the adjustments to be made under this chapter for other officers and employees within their respective personnel systems. The conference of personnel directors shall confer prior to the submittal of any recommended adjustment by each director to his chief executive or by the administrative director of the courts to the chief justice. Such adjustments and their effective dates shall be uniform, if practicable, among the jurisdictions.

- (b) The superintendent of education and the president of the University of

Hawaii shall submit to the board of education and the board of regents, respectively, recommendations on the adjustments to be made under this chapter for officers and employees within their respective personnel systems. The superintendent and the president shall confer with the state director of personnel services prior to the submittal of any recommended adjustment. Any adjustments adopted by the board of education or the board of regents which presently require the approval of the governor shall remain subject to the approval of the governor.

**Sec. -5 Implementation; effective date, appropriations, approval.** (a) Adjustments made under this chapter which do not exceed those for officers and employees in collective bargaining units shall take effect on the same dates as appropriate collective bargaining agreements. Any such adjustments which constitute cost items shall be subject to appropriations by the appropriate legislative bodies. Such cost items shall be submitted separately from any cost items under collective bargaining to the appropriate legislative bodies, except that if appropriation by the State Legislature is required, and it is not in session at the time, such cost items shall be submitted for inclusion in the governor's next operating budget. The State Legislature or the legislative bodies of the counties acting in concert, as the case may be, may approve or reject the cost items submitted to them, as a whole. If the State Legislature or the legislative body of any county rejects any of the cost items submitted to them, all cost items shall be returned for revision.

(b) Any other adjustments made under this chapter which constitute cost items or which were specifically provided for by legislative enactment shall be subject to approval or rejection as a whole by the appropriate legislative body. Such adjustments for officers and employees covered under chapter 77 shall be subject to the approval or rejection as a whole by all appropriate legislative bodies acting in concert. If the State Legislature or the legislative body of any county rejects any of the adjustments submitted to it, all adjustments for officers and employees covered under chapter 77 or all adjustments for other officers and employees, as the case may be, shall be returned for revision.

(c) The chief executives of the State or counties, the board of education, the board of regents or the chief justice, shall not make any adjustments nor use funds for purposes of this chapter without the prior approval of the appropriate legislative bodies as required in this section.

**Sec. -6 Chapter takes precedence, when.** Adjustments made in accordance with this chapter shall take precedence over all contrary local ordinances, executive orders, legislation, rules or regulations adopted by the State or a county, or any department, agency, board, or commission thereof, including the departments of personnel services or the civil service commissions.

**Sec. -7 Severability.** If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 3. Section 78-18.5, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. In printing this Act, the revisor need not include the brackets or the bracketed material.\*

SECTION 5. This Act shall take effect upon its approval, except for section -2(1) of this Act which shall be retroactive to July 1, 1977. Notwithstanding any law to the contrary an officer or employee who was eligible under section -2(1) for a salary increase on July 1, 1977, in the same amount or percentage as the salary increase provided under collective bargaining agreements, but who was not granted the full amount of the salary increase, shall be granted a salary adjustment equal to the difference between the full amount of the salary increase to which he was entitled and the amount he received, retroactive to July 1, 1977.

(Approved June 3, 1978.)

ACT 198

S.B. NO. 2100-78

A Bill for an Act Relating to Unemployment Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-30, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-30 Disqualification for benefits.** An individual shall be disqualified for benefits:

- (1) Voluntary separation. For any week in which he has left his work voluntarily without good cause, and continuing until he has, subsequent to the week in which the voluntary separation occurred, been employed for at least five consecutive weeks of employment. For the purposes of this subsection, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
- (2) Discharge or suspension for misconduct. For the week in which he has been discharged [or suspended] for misconduct connected with his work, and continuing until he has, subsequent to the week in which the discharge [or suspension] occurred, been employed for at least five consecutive weeks of employment. For the week in which he has been suspended for misconduct connected with his work and for not less than one or more than four consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct. For the purposes of this subsection, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not

\*Edited accordingly.

less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.

- (3) Failure to apply for work, etc. For the week in which he failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered him and continuing until he has, subsequent to the week in which the failure occurred, been employed for at least five consecutive weeks of employment. For the purposes of this subsection, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
- (A) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (3) (B) of this section, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving his work under paragraph (1) of this section.
- (B) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
  - (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
  - (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
  - (iii) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.
- (4) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed; provided that this paragraph shall not apply if it is shown that:
  - (A) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
  - (B) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs,



any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment or other premises.

- (5) If the department finds that he has within the twenty-four calendar months immediately preceding any week of his unemployment made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact to obtain any benefits not due under this chapter, he shall be disqualified for benefits beginning with the week in which the department makes the determination and for each consecutive week during the current and subsequent twenty-four calendar months immediately following such determination, and such individual shall not be entitled to any benefit under this chapter for the duration of such period; provided, that no disqualification shall be imposed if proceedings have been undertaken against the individual under section 383-141.
- (6) Other unemployment benefits. For any week or part of a week with respect to which he has received or is seeking unemployment benefits under any other employment security law, except the agricultural unemployment compensation law, chapter 384, but this paragraph shall not apply (A) if the appropriate agency finally determines that he is not entitled to benefits under such other law, or (B) if benefits are payable to him under an act of Congress which has as its purpose the supplementation of unemployment benefits under a state law.
- (7) Deleted."

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

A Bill for an Act Relating to Prepaid Health Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 393-2, Hawaii Revised Statutes, is amended to read:

"Sec. 393-2 **Findings and purpose.** The cost of medical care in case of sudden need may consume all or an excessive part of a person's resources. Prepaid health care plans offer a certain measure of protection against such emergencies. It is the purpose of this chapter in view of the spiraling cost of comprehensive medical care to provide this type of protection for the employees

## ACT 200

in this State. Although a large segment of the labor force in the State already enjoys coverage of this type either by virtue of collective bargaining agreements, employer-sponsored plans, or individual initiative, there is a need to extend that protection to workers who at present do not possess any or possess only inadequate prepayment coverage.

This chapter shall not be construed to diminish any protection already provided pursuant to collective bargaining agreements or employer-sponsored plans that is more favorable to the employees benefited thereby than the protection provided by this chapter or at least equivalent thereto, provided that presently existing collective bargaining agreements shall not be affected by the provisions of this section."

SECTION 2. Section 393-19, Hawaii Revised Statutes, is amended to read:

**"Sec. 393-19 Freedom of Collective Bargaining.** (a) In addition to the policy stated in section 393-2, nothing in this chapter shall be construed to limit the freedom of employees to bargain collectively for different prepaid health care coverage, if the protection provided by the negotiated plan is more favorable to the employees benefited than the protection provided by this chapter or at least equivalent thereto, or for a different allocation of costs thereof. A collective bargaining agreement may provide that the employer himself undertakes to provide the health care specified in the agreement.

(b) If the employees rendering particular types of services are not covered by the health care provisions of the applicable collective bargaining agreements to which their employer is a party, the provisions of this chapter shall be applicable with respect to them. An employer or group of employers shall be deemed to have complied with the provisions of this chapter if they undertake to provide health care services pursuant to a collective bargaining agreement and the services are available to all other employees not covered by such agreement."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect on January 1, 1978.

(Approved June 3, 1978.)

ACT 200

H.B. NO. 645

A Bill for an Act Relating to Temporary Disability Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*Edited accordingly.

SECTION 1. Section 392-41, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) An employer or an association of employers shall secure temporary disability benefits for their employees in one or more of the following ways:

- (1) By insuring and keeping insured the payment of temporary disability benefits with any stock, mutual, reciprocal or other insurer authorized to transact the business of disability insurance in the State; or
- (2) By depositing and maintaining with the state director of finance, securities, or the bond of a surety company authorized to transact business in the State, as are satisfactory to the director securing the payment by the employer of temporary disability benefits according to the terms of this chapter; or
- (3) Upon furnishing satisfactory proof to the director of his or its solvency and financial ability to pay the temporary disability benefits herein provided, no insurance or security or surety bond shall be required, and the employer shall make payments directly to his employees, as they may become entitled to receive the same under the terms and conditions of this chapter; or
- (4) By a plan, entitling employees to cash benefits or wages during a period of disability, in existence on the effective date of this chapter.
  - (A) If the employees of an employer or any class or classes of such employees are entitled to receive disability benefits under a plan or agreement which remains in effect on January 1, 1970, the employer, subject to the requirements of this section, shall be relieved of responsibility for making provision for benefit payments required under this chapter until the earliest date, determined by the director for the purposes of this chapter, upon which the employer has the right to discontinue the plan or agreement or to discontinue his contributions toward the cost of the temporary disability benefits. Any plan or agreement referred to in this subparagraph may be extended, with or without modification, by agreement or collective bargaining between the employer or employers or an association of employers and an association of employees; provided the benefits under the plan or agreement, as extended or modified, are found by the director to be at least as favorable as the disability benefits required by this chapter.
  - (B) Any other plan or agreement in existence on January 1, 1970 which the employer may, by his sole act, terminate at any time, or with respect to which he is not obligated to continue for any period to make contributions, may be accepted by the director as satisfying the obligation to provide for the payment of benefits under this chapter if the plan or agreement provides benefits at least as favorable as the disability benefits required by this chapter and does not require contributions of any employee or of any class or classes of employees in excess of the amount authorized in section

392-43, except by agreement and provided the contribution is reasonably related to the value of the benefits as determined by the director. The director may require the employer to enter into an agreement in writing with the director that until the employer shall have filed written notice with the director of his election to terminate such plan or agreement or to discontinue making necessary contributions toward the cost of providing benefits under the plan or agreement, he will continue to provide for the payment of the disability benefits under the plan or agreement. Any plan or agreement referred to in this subparagraph may be extended, with or without modification; provided the benefits under the plan or agreement, as extended or modified, are found by the director to be at least as favorable as the disability benefits required by this chapter; or

- (5) By a new plan or agreement. On or after January 1, 1970 a new plan or agreement with an insurer may be accepted by the director as satisfying the obligation to provide for the payment of benefits under this chapter if the plan or agreement provides benefits at least as favorable as the disability benefits required by this chapter and does not require contributions of any employee or of any class or classes of employees in excess of the amount authorized in section 392-43, except by agreement and provided the contribution is reasonably related to the value of the benefits as determined by the director. Any such plan or agreement shall continue until written notice is filed with the director of intention to terminate the plan or agreement, and any modification of the plan or agreement shall be subject to the written approval of the director."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

## ACT 201

H.B. NO. 1066

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 386-141 Employment rights of injured employees.** It shall be unlawful for any employer to suspend or discharge any employee solely because he suffers any work injury which is compensable under this chapter and which arises

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\*Edited accordingly.

out of and in the course of employment with the employer unless it is shown to the satisfaction of the director that the employee will no longer be capable of performing his work as a result of the work injury and that the employer has no other available work which the employee is capable of performing. Any employee who is suspended or discharged because of such work injury shall be given first preference of reemployment by the employer in any position which the employee is capable of performing and which becomes available after the suspension or discharge and during the period thereafter until the employee secures new employment. This section shall not apply to the United States or to employers subject to part III of chapter 378."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

## ACT 202

H.B. NO. 2462-78

A Bill for an Act Relating to Regulation of Employment Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to further the goals of consumer protection by strengthening regulation of and professionalizing commercial employment agencies.

SECTION 2. Section 373-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 373-5 Application for license.** Every individual, agent, partnership, corporation, or association seeking a license to operate an employment agency shall file a written application with the director of labor and industrial relations which shall contain such information and shall be in such form as the director may prescribe; provided that in addition to complying with all other requirements of this chapter, no license shall be issued unless the applicant has passed a certified employment consultant examination as designated by the director of labor and industrial relations; and provided further that this section shall not apply to persons holding valid licenses on the effective date of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

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\*Edited accordingly.

A Bill for an Act Authorizing the Repair and Maintenance of Public Facilities and Making Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums or so much thereof as may be necessary are hereby appropriated out of the general revenues of the State of Hawaii to the programs and agencies designated, for repair, maintenance, and renovation of public facilities:

(1) AGS 807—Physical Plant Operations and Maintenance (Department of Accounting and General Services)	\$300,000
(2) UOH 904—Statewide Institutional Support (University of Hawaii)	300,000
(3) SOC 220—Rental Housing Augmentation and Assistance (Department of Social Services and Housing)	250,000
(4) HTH 907—General Administration (Department of Health)	250,000

SECTION 2. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1979, shall lapse into the general fund of the State.

SECTION 3. This Act shall take effect on July 1, 1978.

(Approved June 3, 1978.)

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaiian Homes Commission Act, 1920, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 226. Qualification for federal programs.** The department shall be qualified to participate in any federal program that renders assistance in program areas that the department is mandated by the Act to implement."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval by the Governor of the State of Hawaii, and with the consent of the United States.

(Approved June 3, 1978.)

\*Edited accordingly.

A Bill for an Act Relating to Holidays.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In the past, Hawai'i's monarchs were recognized and revered for their contributions to the development and protection of Hawai'i. As time progressed, however, the familiarity of our recent monarchs has been lost. When a holiday is celebrated in their honor, it is only right that the full name be cited, perhaps in that small way again making the monarchs of the past recognizable to the people of the day.

It is the purpose of this Act to change the names of the holidays for the Hawaiian monarchs to include their full names and, or, title. This Act also designates the fourth Thursday in November as Thanksgiving Day.

SECTION 2. Section 8-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 8-1 Holidays designated.** The following days of each year are set apart and established as state holidays:

The first day of January, New Year's Day;  
 The third Monday in February, Presidents' Day;  
 The twenty-sixth day of March, Prince Jonah Kuhio Kalaniana'ole Day;  
 The Friday preceding Easter Sunday, Good Friday;  
 The last Monday in May, Memorial Day;  
 The eleventh day of June, King Kamehameha I Day;  
 The fourth day of July, Independence Day;  
 The third Friday in August, Admission Day;  
 The first Monday in September, Labor Day;  
 The second Monday in October, Discoverers' Day;  
 The eleventh day in November, Veterans' Day;  
The fourth Thursday in November, Thanksgiving Day;  
 The twenty-fifth day of December, Christmas Day;

All election days, except primary election day, in the county wherein the election is held;

Any day designated by proclamation by the President of the United States or by the governor as a [day of Thanksgiving, fasting or religious observance;] holiday;

[Any day designated by proclamation by the governor as a holiday.]"

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

A Bill for an Act Relating to the Kamehameha Day Celebration Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

**“Sec. 8- King Kamehameha I.** The King Kamehameha celebration commission is authorized to determine to whom and for which occasions permission is to be granted for the use of the statue of King Kamehameha I.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

A Bill for an Act Relating to Emblems and Symbols.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 5- State Language.** The Hawaiian language is the native language of Hawaii and may be used on all emblems and symbols representative of the State, its departments, agencies and political subdivisions.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

A Bill for an Act Relating to the Membership of Various Boards and Commissions in the Department of Regulatory Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 438-3, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 438-3 Creation of state board.** There shall be a state board of barbers consisting of seven members who shall be appointed and may be removed by the

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\*Edited accordingly.



governor in the manner prescribed in section 26-34. The members shall be citizens of the State and five members must have practiced barbering in the State for at least five consecutive years immediately preceding his appointment and two shall be public members. Three of the members of the board practicing barbering shall be residents of Oahu, and two practicing barbering shall be residents of the outside islands. Each member shall serve for a term of four years, and until his successor is appointed and qualified."

SECTION 2. Section 439-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read:

**"Sec. 439-3 Cosmetology board; appointment; qualifications; terms.**

(a) Appointment and removal. There shall be a board of cosmetology consisting of seven members, who shall be appointed, and may be removed, by the governor in the manner provided in section 26-34.

(b) Qualification of members. Five of the members of the board shall be operators who have been registered to practice in the State for at least five years and have been actively and continuously engaged in either or both of the classified occupations for such period and two shall be public members. None of them shall be members of nor affiliated with any school teaching any of the classified occupations, nor shall more than two members of the board be graduates of the same school or practitioners of the same system or method."

SECTION 3. Section 442-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 442-3 Board of examiners.** There shall be a board to be known as the "state board of chiropractic examiners," which shall consist of five members, who shall be appointed by the governor, in the manner prescribed in section 26-34. Three members of the board must have pursued a resident course in a regularly incorporated chiropractic school or college and must be graduates thereof and hold a diploma therefrom and two shall be public members.

At least three members of the board shall be licensees hereunder. No person connected with any chiropractic school or college is eligible to appointment as a member of the board. Each member of the board shall serve without pay; provided, that the actual and necessary traveling expenses of the members of the board incurred in connection with the performance of official duties shall be paid by the department of regulatory agencies, upon proper vouchers approved by the department."

SECTION 4. Section 448-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 448-5 Board of examiners; appointment.** The governor shall appoint, in the manner prescribed in section 26-34, and for neglect of duty, incompetency, or dishonorable conduct, may remove the board of dental examiners, which shall consist of nine members, seven of whom shall be practicing dentists, who have been engaged in the practice of dentistry in the State for a period of five years preceding their several appointments, and two of whom shall be public members. No member shall be in any way connected with, or interested financially in, any

dental supply company. One member in the practice of dentistry shall be appointed from each of the counties of Hawaii, Maui, and Kauai and four members in the practice of dentistry shall be appointed from the city and county of Honolulu. The members of the board shall serve without pay, and each shall serve until his successor is appointed and qualified."

SECTION 5. Section 452-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-4 Creation of state board.** There shall be a state board of massage consisting of five members. The governor shall appoint the members of such board in the manner prescribed in section 26-34. Three members shall have at least three years of practical experience as registered masseurs and shall be American citizens and two shall be public members."

SECTION 6. Section 455-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 455-4 State board of examiners in naturopathy.** The governor shall appoint in the manner prescribed by section 26-34 the state board of examiners in naturopathy, consisting of three members. Each member shall serve until his successor is appointed and qualified. Two members of the board shall, before appointment, have been licensed to practice naturopathy in the State under the laws thereof in force at the date of the issuance of the license and one shall be a public member."

SECTION 7. Section 457-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 457-3 State board of nursing; appointment; term of office; removal from office.** There shall be a board of nursing the members of which shall be appointed and may be removed by the governor in the manner prescribed in section 26-34. The board shall consist of nine members, five of whom shall be registered nurses, two of whom shall be licensed practical nurses, and two of whom shall be public members. Both nursing education and nursing service shall be represented on the board. The term of office for members of the board shall be three years. No member shall be appointed to more than two consecutive terms or serve more than six years. Six members of the board shall be residents of the city and county of Honolulu and three shall be residents of counties other than the city and county of Honolulu."

SECTION 8. Section 458-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 458-2 Board of examiners; members, qualifications.** The governor shall appoint in the manner prescribed in section 26-34 as the board of dispensing opticians (hereinafter in this chapter referred to as the "board") five members.

No member of the board shall be reappointed to succeed himself thereon. Upon the expiration of his term of office a member shall continue to serve until his successor has been appointed and has qualified. A member may be removed by the governor in the manner prescribed in section 26-34. Three members of the board shall be persons engaged in the occupation of dispensing opticians either in

their individual capacity, as members of partnerships or officers of corporations holding certificates under this chapter and two shall be public members. Each member of the board is entitled to necessary travel and other expenses incurred in the discharge of his duties."

SECTION 9. Section 459-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 459-3 Board of examiners; members, appointment, qualifications.** There shall be a board to be known as the board of examiners in optometry, for the State. The board shall consist of five members, three of whom shall possess sufficient knowledge of theoretical and practical optics to practice optometry and who have been residents of the State actually engaged in the practice of optometry for at least one year and two shall be public members. The board shall be appointed by the governor in accordance with section 26-34. No member of the board shall be a stockholder, member of the faculty, or on a board of trustees of any school of optometry."

SECTION 10. Section 460-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 460-4 Board; appointment, powers and duties.** The governor shall appoint and may remove in the manner prescribed in section 26-34 a board of osteopathic examiners, consisting of five persons, three of whom shall be osteopathic physicians or surgeons licensed under the laws of the State and two shall be public members.

The board shall examine all applicants for licenses to practice as osteopathic physicians or as osteopathic physicians and surgeons. Examinations shall be held quarterly at a time and a place to be fixed by the board, of which examinations all applicants shall be notified in writing. Subject to chapter 91 and with the approval of the governor and the director of regulatory agencies, the board may make, amend, and repeal all necessary rules and regulations relating to the enforcement of this chapter and not inconsistent therewith. The members of the board shall serve without pay."

SECTION 11. Section 461-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 461-2 Board of pharmacy; appointment; qualifications.** There shall be a board of pharmacy of seven members who shall be appointed by the governor in the manner prescribed by section 26-34.

Five members of the board shall be graduates of a school or college of pharmacy and shall have been licensed as pharmacists and actively engaged in the practice of pharmacy in the State for at least five years prior to their appointment and two shall be public members. Four members of the board shall be residents of the city and county of Honolulu and three shall be residents of counties other than the city and county of Honolulu."

SECTION 12. Section 464-6, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 464-6 Board of registration of professional engineers, etc., members; appointment, tenure; qualifications.** There shall be a state board of registration of professional engineers, architects, and surveyors hereinafter called “the board”, to be appointed by the governor in the manner prescribed in section 26-34. The board shall consist of fourteen members, including at least three professional engineers, three professional architects, three professional surveyors, two professional landscape architects and three public members. Each county shall be represented by at least one member who is a resident of the county. Each member shall hold over after the expiration of his term until his successor is duly appointed and qualified.

Each member shall have been a resident of the State for at least three years. A member representing the profession shall have been engaged in the practice of his profession for at least nine years immediately preceding the date of his appointment. Members of the board shall serve without pay, except the secretary, who shall be allowed such compensation as the board may fix with the approval of the governor. Any member of the board, however, who incurs expenses in connection with the preparation and grading of examination papers shall be reimbursed for such expenses with the approval of the board.

The department of regulatory agencies shall employ, subject to chapters 76 and 77, a secretary and such other clerical help as are necessary for the proper performance of the board’s work and may make any reasonable expenditures which are necessary to carry out the functions of the board.”

SECTION 13. Section 466-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) **Members.** There shall be a board of public accountancy to be known as the state board of public accountancy, which shall consist of nine members appointed by the governor in the manner prescribed in section 26-34. All members of the board shall be citizens of the United States and residents of this State. Five members thereof shall be certified public accountants in active practice holding current certificates as such and current permits to practice public accountancy, issued under this chapter. Two members thereof shall be public accountants in active practice holding current registrations as such and current permits to practice public accountancy issued under this chapter and two shall be public members.”

SECTION 14. Section 467-3, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 467-3 Commission, appointments, qualifications, tenure.** There shall be appointed in the manner provided by section 26-34, a commission to be known as the real estate commission, and to consist of nine members, at least four of whom shall be licensed real estate brokers who have been engaged in business as licensed real estate brokers or salesmen for three years immediately preceding their appointments, each of whom shall be a citizen of the United States and shall have resided in the State for at least three years preceding his appointment, and one of whom shall be designated by the appointing power as chairman. Four members shall be residents of the city and county of Honolulu, one shall be a

resident of the county of Hawaii, one shall be a resident of the county of Maui, and one shall be a resident of the county of Kauai and two members shall be public members.

Appointments shall be made for a term of four years, commencing from the date of expiration of the last preceding term and shall be made to expire on December 31. Appointments shall be made so that at least one appointment shall be required each year.

Any vacancy shall be filled by appointment for the unexpired term. The members of the commission shall serve without pay. All expenses shall be paid out of the special fund provided in section 467-11.

Any four members shall constitute a quorum to do business."

SECTION 15. Section 471-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 471-3 Board of examiners; appointment and removal; qualifications.**

A board of veterinary examiners, consisting of seven members, four of whom shall be residents of the city and county of Honolulu and three of whom shall be residents of counties other than the city and county of Honolulu, shall be appointed, and may be removed, by the governor in the manner provided in section 26-34.

Five of the members of the board shall be veterinarians who have been licensed to practice in the State for at least five years and shall be actively engaged in the practice of veterinary medicine or, if not active at the time of appointment, shall have been previously so engaged for ten years and two shall be public members."

SECTION 16. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 17. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

ACT 209

H.B. NO. 425

A Bill for an Act Relating to Electricians and Plumbers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 448E-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 448E-9 Unlicensed activity.** (a) No person shall act or assume to act as a journeyman electrician, journeyman specialty electrician, supervising electrician, supervising specialty electrician, motion picture operator, journeyman

\*Edited accordingly.

plumber, master plumber, or maintenance electrician without a license previously obtained in compliance with this chapter and the rules and regulations of the board; provided that any person may perform emergency plumbing repair work in his principal place of residence when such repairs do not involve or require rearrangement of valves, pipes or fixtures; provided further that no such emergency repairs may be performed on sewer lines, drains, gas lines, and on fixtures being served with backflow devices which includes heaters, water closets, dishwashers and garbage disposal units."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1978.)

ACT 210

S.B. NO. 1919-78

A Bill for an Act Relating to Disposition of Defendants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-662, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 706-662 Criteria for sentence of extended term of imprisonment for felony.** The court may sentence a person who has been convicted of a felony to an extended term of imprisonment if it finds one or more of the grounds specified in this section. The finding of the court shall be incorporated in the record.

- (1) Persistent offender. The defendant is a persistent offender whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant is twenty-two years of age or older and has previously been convicted of two felonies committed at different times when he was eighteen years of age or older.
- (2) Professional criminal. The defendant is a professional criminal whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant is twenty-two years of age or older and:
  - (a) The circumstances of the crime show that the defendant has knowingly devoted himself to criminal activity as a major source of livelihood; or
  - (b) The defendant has substantial income or resources not explained to be derived from a source other than criminal activity.
- (3) Dangerous person. The defendant is a dangerous person whose commitment for an extended term is necessary for protection of the public.

\*Edited accordingly.

The court shall not make such a finding unless the defendant has been subjected to a psychiatric examination resulting in the conclusion that his criminal conduct has been characterized by compulsive, aggressive behavior with heedless indifference to consequences, and that such condition makes him a serious danger to others.

- (4) Multiple offender. The defendant is a multiple offender whose criminality was so extensive that a sentence of imprisonment for an extended term is warranted. The court shall not make such a finding unless:
  - (a) the defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for felony; or
  - (b) the maximum terms of imprisonment authorized for each of the defendant's crimes, if made to run consecutively would equal or exceed in length the maximum of the extended term imposed, or would equal or exceed forty years if the extended term imposed is for a class A felony.
- (5) Offender against elderly or handicapped. The defendant is an offender against the elderly or handicapped whose commitment for an extended term is necessary for the protection of the public. The court shall not make such a finding unless:
  - (a) the defendant inflicts serious bodily injury upon a person who is 60 years of age or older; or against a person who is blind, a paraplegic, or a quadriplegic; and
  - (b) such disability is known or reasonably should be known to the defendant; and
  - (c) the defendant attempts or commits any of the following crimes: murder, rape, robbery, felonious assault, burglary and kidnapping."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.  
(Approved June 5, 1978.)

## ACT 211

S.B. NO. 2595-78

A Bill for an Act Relating to Obstruction of Justice.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 710, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 710- Obstruction of justice.** (1) A person commits the offense of obstruction of justice if he intentionally engages in the following conduct: When

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\*Edited accordingly.

called as a witness and having been granted immunity pursuant to chapter 621C before or after having been qualified as a witness, shall refuse to testify or be qualified as a witness when duly directed to testify or be qualified as a witness.

(2) Obstruction of justice is a Class "C" felony."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 212

S.B. NO. 2596-78

A Bill for an Act Relating to Witness Immunity.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 621C, Hawaii Revised Statutes, is hereby repealed.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be designated as Chapter 621C and to read:

**"CHAPTER 621C  
WITNESS IMMUNITY**

**Sec. 621C-1 Self incrimination claim precluded.** If a person refuses, on the basis of his privilege against self-incrimination, to testify or produce a record, document, or other object in an official proceeding conducted under the authority of:

- (1) A court or grand jury;
- (2) An agency of the State; or
- (3) Either house of the legislature, a joint committee of the two houses, or a committee or a subcommittee of either house;

and the presiding officer informs the person of an order issued under this chapter, the person may not refuse to comply with the order on the basis of his privilege against self-incrimination.

**Sec. 621C-2 Procedures.** If a person has been or may be subpoenaed to testify or to produce a record, document, or other object in an official proceeding as described in section 621C-1, a judge of a circuit court may, upon application by the attorney general or county prosecutor, issue an order requiring the person to testify or to produce a record, document, or other object, notwithstanding his refusal to do so on the basis of his privilege against self-incrimination. The order may be issued prior to the assertion of the privilege against self-incrimination but shall not be effective until the witness asserts his privilege against self-incrimination and the presiding officer communicates the order to him. The application and order shall specify whether the immunity granted under this

\*Edited accordingly.



chapter is use immunity as set forth in section 621C-3 or transactional immunity as set forth in section 621C-4.

**Sec. 621C-3 Use immunity.** The testimony or production that is compelled under the order, and any information directly or indirectly derived from the testimony or production, may not be used against the person in any manner in a criminal case, except in a prosecution for perjury, for giving a false statement, or for an offense involving a failure to comply with the order; provided that such person may be prosecuted or punished for any crime so long as testimony or production that is compelled under the order, and any information directly or indirectly derived from such testimony or production, is not used against such person in such prosecution.

**Sec. 621C-4 Transactional immunity.** If a person is ordered to testify or produce a record, document, or other object under this chapter and the order specifies that the person is granted transactional immunity pursuant to this section, such person shall not be prosecuted or punished in any criminal action or proceeding for or on account of any act, transaction, matter, or thing concerning which he is so ordered to testify or produce a record, document, or other object, except that he may be prosecuted for perjury, for giving a false statement, or for an offense involving a failure to comply with the order.

**Sec. 621C-5 Penalty.** Any witness granted immunity hereunder who fails or refuses to testify or produce other information may be punished by the court for contempt, provided that the witness may be charged with and convicted of the other offense notwithstanding the fact that he has been punished by the court for contempt."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 213

H.B. NO. 1688

A Bill for an Act Relating to the State Law Enforcement Planning Agency.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to provide for the establishment and operation of the State Law Enforcement Planning Agency, State of Hawaii.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

## **"CHAPTER**

## **STATE LAW ENFORCEMENT PLANNING AGENCY**

**Sec. -1 Establishment.** The state law enforcement planning agency is established within the office of the governor and shall be subject to the jurisdiction of the governor.

**Sec. -2 Organization and staffing.** The state law enforcement planning agency shall be headed by a director who shall be assisted by a deputy director.

**Sec. -3 Functions.** The state law enforcement planning agency shall, among others, perform the following functions:

- (1) Administer and implement, upon creation as the state planning agency by this chapter as mandated by Section 203 of Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, 82 Stat. 197, as amended by Section 105 of the Crime Control Act of 1976, Public Law 94-503, 90 Stat. 2407 (A) the Law Enforcement Assistance Administration (LEAA) program authorized by said Omnibus Crime Control and Safe Streets Act, as amended, and (B) the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, 42 USC 5601, as amended.
- (2) Develop and update a comprehensive statewide plan for the improvement of law enforcement and criminal justice, including the prevention and control of juvenile delinquency. The subject comprehensive plan shall be submitted to the Legislature while in session or to the President of the Senate and the Speaker of the House of Representatives while the Legislature is not in session for an advisory review pursuant to the Omnibus Crime Control And Safe Streets Act of 1968 as amended by Section 108 of the Crime Control Act of 1976, Public Law 94-503, and shall, among other things contain:
  - (A) A description of the existing criminal justice system in the State and resources available thereto.
  - (B) An assessment of criminal justice problems and needs in the State.
  - (C) Recommendations regarding criminal justice improvement programs and priorities relating thereto.
  - (D) A description, to the extent appropriate, of the relationship of the subject plan to other relevant state or local law enforcement and criminal justice plans and system.

**Sec. -4 Duration.** The state law enforcement planning agency shall continue its operation as necessary, and so long as sufficient federal funds are available, to administer and implement the provisions of the aforementioned Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended."

SECTION 3. Any law to the contrary notwithstanding, all moneys appropriated by the Hawaii State Legislature to the State Law Enforcement and Juvenile Delinquency Planning Agency shall be transferred and be subject to utilization by the State Law Enforcement Planning Agency.

SECTION 4. All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee

may be transferred or appointed to a civil service position without the necessity of examination; provided, that the officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided, that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any officer or employee of the State who does not have tenure and whose function is transferred by this Act shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges.

SECTION 5. All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps and other personal property heretofore made, used, acquired or held by the State Law Enforcement and Juvenile Delinquency Planning Agency relating to the functions transferred to the State Law Enforcement Planning Agency shall be transferred with the functions to which they relate.

SECTION 6. It is the intent of this Act not to jeopardize the receipt of any federal aid and to the extent, and only to the extent necessary to effectuate this intent, the governor may modify the strict provisions of this Act but shall promptly thereafter report any such modification and reasons therefor for review to the legislature at its next session.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 214

H.B. NO. 1838-78

A Bill for an Act Relating to Public Health and Morals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 707- Promoting child abuse in the first degree.** (1) A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person produces, directs, or participates in the preparation of material or engages in a performance which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

"Material" means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

"Minor" means any person less than sixteen years old.

"Performance" means any play, motion picture film, dance, or other exhibition performed before any audience.

"Sexual conduct" means acts of masturbation, homosexuality, lesbianism,

bestiality, sexual intercourse, deviate sexual intercourse, or sadomasochistic abuse.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the first degree is a class B felony.

SECTION 2. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 707- Promoting child abuse in the second degree.** (1) A person commits the offense of promoting child abuse in the second degree if, knowing or having reason to know its character and content, the person disseminates any material which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

“Disseminate” means to publish, sell, distribute, transmit, exhibit, or present material or to offer to agree to do the same.

“Material” means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

“Minor” means any person less than sixteen years old.

“Sexual conduct” means act of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, deviate sexual intercourse, or sadomasochistic abuse.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the material was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the second degree is a class C felony.

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval and shall not apply to any conduct which takes place prior to the effective date.

(Approved June 5, 1978.)

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\*Edited accordingly.

## ACT 215

H.B. NO. 263

A Bill for an Act Relating to Reckless Endangering with a Firearm.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-713, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 707-713 Reckless endangering in the first degree.** (1) A person commits the offense of reckless endangering in the first degree if he employs widely dangerous means in a manner which recklessly places another person in danger of death or serious bodily injury or intentionally fires a firearm in a manner which places another person in danger of death or serious bodily injury.

(2) Reckless endangering in the first degree is a Class C felony.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act should take effect upon its approval.

(Approved June 5, 1978.)

## ACT 216

H.B. NO. 491

A Bill for an Act Relating to Vandalism in the Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read:

**“Sec.        Damage to public school property.** (a) Any pupil found to be responsible for an act of vandalism against any public school, building, facility, or ground may make restitution in any manner including monetary restitution by the pupil or pupil’s parents.

For the purpose of this section, “vandalism” shall include, but not be limited to, mischievous or malicious destruction of property, such as breakage of windows, lockers, doors, and other such acts. The provisions of this section shall be in addition to and shall in no way limit the provisions of any other law concerning offenses against property rights.

(b) No pupil, parent or guardian shall be required to make restitution in any manner unless the pupil and the parents or guardian have been notified and have been given an opportunity to be heard, on any report of vandalism involving the pupil, and the pupil, parent or guardian have executed a written agreement to make such restitution.

(c) The principal of the school in which the vandalism occurred shall make or order an investigation of the vandalism. If after such investigation, the prin-

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\*Edited accordingly.

principal has reasonable cause to believe that a specific pupil is responsible for the vandalism, the principal shall schedule a conference with such pupil and his or her parents or guardian, and a public officer or employee designated by the district superintendent shall witness the conference proceedings. Except for the principal of the school in which the vandalism occurred, the officer or employee designated by the district superintendent, the pupil and the parents or guardian, no other person shall be permitted to be in the conference for any reason.

(d) At the conference, the principal of the school in which the vandalism occurred shall present its findings of the investigation and the requirements of restitution to the pupil and parents or guardian.

If the pupil and the parents or guardian agree with the findings of the principal and the manner in which restitution is to be made, the principal and the pupil and parent or guardian shall execute a written agreement which shall specify the manner in which restitution is to be made. The agreement shall be acknowledged and approved by the officer or employee designated by the district superintendent to witness the conference proceedings. The amount of liability shall not exceed \$2,000 in any agreement of the parties.

If restitution is made in this fashion, then all records and documents regarding the investigation and conference shall be destroyed. No information about the investigation, conference and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the findings made by the principal, the principal shall preserve all the records and documents regarding the investigation and conference and may report to the district superintendent of the findings for any further action. Such further action includes, but is not limited to, conducting a hearing by the district superintendent on the matters reported by the principal as a contested case pursuant to Chapter 91.

(e) Notwithstanding any provisions herein to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this act shall limit the right of the State to bring such action against any person to recover such damages."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 217

H.B. NO. 2087-78

A Bill for an Act Relating to Release on Bail.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 804, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

\*Edited accordingly.

**"Sec. 804- Conditions of release on bail.** Upon a showing that there exists a danger that the defendant will commit a serious crime or will seek to intimidate witnesses, or will otherwise unlawfully interfere with the orderly administration of justice, the judicial officer named in section 804-5, upon the defendant's release on bail, may enter an order:

- (1) Prohibiting the defendant from approaching or communicating with particular persons or classes of persons, except that no such order should be deemed to prohibit any lawful and ethical activity of defendant's counsel;
- (2) Prohibiting the defendant from going to certain described geographical areas or premises;
- (3) Prohibiting the defendant from possessing any dangerous weapon, or engaging in certain described activities or indulging in intoxicating liquors or in certain drugs;
- (4) Requiring the defendant to report regularly to and remain under the supervision of an officer of the court;
- (5) Imposing any combination of conditions listed above.

**Sec. 804- Violations of conditions of release on bail.** Upon verified application by the prosecuting attorney alleging that a defendant has wilfully violated the conditions of release on bail, the judicial officer named in section 804-5 shall issue a warrant directing the defendant be arrested and taken forthwith before the court of record for hearing. A law enforcement officer having reasonable grounds to believe that a released felony defendant has violated the conditions of release on bail may, where it would be impracticable to secure a warrant, arrest the defendant and take the defendant forthwith before the court of record.

**Sec. 804- Sanctions for violation of conditions of release on bail.** After hearing, and upon finding that the defendant has wilfully violated reasonable conditions imposed on release on bail, the court may impose different or additional conditions upon defendant's release or revoke defendant's release on bail."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 218

H.B. NO. 2434-78

A Bill for an Act Relating to Electronic Eavesdropping.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*Edited accordingly.

**SECTION 1. Purpose.**

- (1) In order to protect effectively the privacy of wire and oral communications while fighting serious or organized crime and to protect the integrity of court and administrative proceedings, it is necessary for the Legislature to define on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized, to prohibit any unauthorized interception of wire and oral communications, and the use of the contents thereof in evidence in courts and administrative proceedings.
- (2) Organized criminals make extensive use of wire communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.
- (3) To safeguard the privacy of innocent persons, the interception of wire communications where none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire communications should further be limited to the most serious offenses and less serious offenses only when organized crime is involved, with assurances that the interception is justified and that the information obtained thereby will not be misused.

**SECTION 2.** Chapter 803, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

**"PART IV. ELECTRONIC EAVESDROPPING.**

**Sec. 803-41 Definitions.** In this part:

- (1) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications;
- (2) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;
- (3) "Intercept" means the aural acquisition of the contents of any wire communication through the use of any electronic, mechanical, or other device;
- (4) "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than:
  - (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a



communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

- (b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;
- (5) "Person" means any official, employee, or agent of the United States or this State or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;
- (6) "Investigative or law enforcement officer" means any officer of the State or political subdivision thereof, who is empowered by the law of this State to conduct investigations of or to make arrests for offenses enumerated in this part;
- (7) "Contents" when used with respect to any wire communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication;
- (8) "Organized crime" means any combination or conspiracy to engage in criminal activity;
- (9) "Aggrieved person" means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed.

**Sec. 803-42 Interception and disclosure of wire or oral communications prohibited.**

- (1) Except as otherwise specifically provided in this part any person who:
  - (a) Wilfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication;
  - (b) Wilfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any wire or oral communication;
  - (c) Wilfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection; or
  - (d) Wilfully uses, or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection;
 shall be guilty of a class C felony.
- (2) (a) It shall not be unlawful under this part for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission

of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication; provided that such communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

- (b) It shall not be unlawful under this part for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.
- (c) It shall not be unlawful under this part for a person to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of this State or for the purpose of committing any other injurious act; provided that installation in any private place, without consent of the person or persons entitled to privacy therein, of any device for recording, amplifying, or broadcasting sounds or events in that place, or use of any such unauthorized installation, or installation or use outside a private place of such device to intercept sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein is prohibited.
- (d) It shall not be unlawful under this part for any person to intercept a wire or oral communication or to disclose or use the contents of an intercepted communication, when such interception is pursuant to a valid court order under this chapter or as otherwise authorized by law; provided that a communications carrier with knowledge of an interception of communications accomplished through the use of the communication carrier's facilities shall report the fact and duration of the interception to the administrative director of the courts of this State.
- (e) Good faith reliance upon a court order shall be a complete defense to any criminal prosecution for illegal interception, disclosure, or use.

**Sec. 803-43 Devises to intercept wire or oral communications prohibited; penalty; confiscation.** Any person, other than a communications or other common carrier and its duly authorized officers and employees, or any person acting under color of law, who, in this State, manufactures, assembles, possesses, or

distributes, or who attempts to distribute, any electronic, mechanical, or other device, knowing or having reason to know that the device or the design of the device renders it primarily useful for the purpose of wiretapping, wire interception, or eavesdropping, shall be guilty of a class C felony. Any police officer may confiscate any such electronic, mechanical, or other device in violation of this section, and upon conviction the devices shall be destroyed or otherwise disposed of as ordered by the court.

**Sec. 803-44 Application for court order to intercept wire communications.**

The attorney general of this State, or a designated deputy attorney general in the attorney general's absence or incapacity, or the prosecuting attorney of each county, or a designated deputy prosecuting attorney in the prosecuting attorney's absence or incapacity, may make application to a circuit court judge, designated by the chief justice of the Hawaii supreme court, in the county where the interception is to take place, for an order authorizing or approving the interception of wire communications, and such court may grant in conformity with section 803-46 an order authorizing, or approving the interception of wire communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of murder, kidnapping, or felony criminal property damage involving the danger of serious bodily injury as defined in H.R.S. Section 707-700(3), or involving organized crime and any of the following felony offenses: extortion; criminal coercion; bribery of a juror, of a witness, or of a police officer; receiving stolen property; gambling; and sales of dangerous, harmful or detrimental drugs.

**Section 803-45 Authorization for disclosure and use of intercepted wire communications.** (1) Any investigative or law enforcement officer who, by any means authorized by this part, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer, who by any means authorized by this part, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(3) Any person who has received, by any means authorized by this part, any information concerning a wire or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this part may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding in any court or before the grand jury in this State.

(4) No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this part shall lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire or oral communications in the manner authorized, intercepts

communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by the designated circuit court where such court finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this part.

(6) No testimony or evidence relating to a wire or oral communication or any evidence derived therefrom intercepted in accordance with the provisions of this part shall be admissible in support of any misdemeanor charge.

**Sec. 803-46 Procedure for interception of wire communication.** (1) Each application for an order authorizing or approving the interception of a wire communication shall be made in writing upon oath or affirmation to a designated circuit court and shall state the applicant's authority to make such application. Each application shall include the following information:

- (a) The identity of the investigative or law enforcement officer(s) requesting the application, the official(s) applying for a wiretap order;
- (b) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity or description of all persons, if known, committing the offense and whose communications are to be intercepted, and where appropriate (v) the involvement of organized crime;
- (c) A full and complete statement of the facts concerning how the interception is to be accomplished, and if physical entry upon private premises is necessary, facts supporting such necessity;
- (d) A full and complete statement of facts as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;
- (e) A statement of facts indicating the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;
- (f) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire communications involving any of the

same persons, facilities or places specified in the application, and the action taken by the court on each such application; and

- (g) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) An *in camera* adversary hearing shall be held on any wiretap application or application for extension. Upon receipt of the application the designated judge shall appoint an attorney to oppose the application. The attorney shall be appointed and compensated in the same manner as attorneys are appointed to represent indigent criminal defendants. The appointed attorney shall be given at least twenty-four hours notice of the hearing and shall be served with copies of the application, proposed order, if any, and supporting documents with the notice. At the hearing, the attorney appointed may cross-examine witnesses and present arguments in opposition to the application. The affiant supporting the application shall be present at the hearing. If an interlocutory appeal is taken by the State from the denial of an application, the appointed attorney shall be retained to answer the appeal or another attorney shall be appointed for the appeal. The designated circuit court may require the applicant to furnish additional testimony or documentary evidence under oath or affirmation in support of the application. A transcript of the hearing shall be made and kept with application and orders.

(3) Upon such application and after such adversary hearing, the court may enter an order, as requested or as modified, authorizing or approving interception of wire communications within the county in which the court is sitting, if the court determines on the basis of the facts submitted by the applicant that:

- (a) There is probable cause for belief that an individual is committing, has committed, or is about to commit murder, kidnapping, or felony criminal property damage involving the danger of serious bodily injury or that an individual is committing, has committed, or is about to commit one of the other offenses specified in section 803-44 and that organized crime is involved;
- (b) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception;
- (c) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and
- (d) There is probable cause for belief that the facilities from which, or the place where, the wire communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

If the order allows physical entry to accomplish the interception, the issuing judge shall find that the interception could not be accomplished by means other than physical entry.

(4) Each order authorizing or approving the interception, of any wire communication shall specify:

- (a) The identity or description of all persons, if known, whose com-

munications are to be intercepted;

- (b) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted, and the means by which such interceptions shall be made;
- (c) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;
- (d) The identity of the agency authorized to intercept the communications and the persons applying for the application;
- (e) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained; and
- (f) How the interception is to be accomplished.

An order authorizing the interception of a wire communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such carrier, landlord, custodian, or person is according the person whose communications are to be intercepted. Any communication common carrier, landlord, custodian, or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant at the prevailing rates.

(5) No order entered under this section shall authorize or approve the interception of any wire communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsections (1) and (2) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing circuit court deems necessary to achieve the purposes for which it was granted and in no event for longer than fifteen days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this part, and shall terminate upon attainment of the authorized objective, or in any event in thirty days or in fifteen days in case of an extension.

- (a) The interception shall be conducted in such a way as to minimize the resulting invasion of privacy including but not limited to the following methods of minimization:
  - (i) Conversations that appear unlikely to result in incriminating conversations relating to the offense for which the order is issued shall be subject to intermittent monitoring; and
  - (ii) Privileged conversations, including those between a person and his spouse, attorney, physician, or clergyman, shall not be intercepted unless both parties to the conversation are named or described in the wiretap application and order.

- (b) In determining whether incriminating statements are likely to occur during a conversation the following factors should be considered:
  - (i) The parties to the conversation;
  - (ii) The particular offense being investigated;
  - (iii) The subject matter of the conversation;
  - (iv) The subject matter of previous conversations between the same parties and whether any incriminating statements occurred; and
  - (v) The hour and day of the conversation.

(6) Whenever an order authorizing interception is entered pursuant to this part, the order shall require reports to be made to the court which issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require.

- (7) (a) The contents of any wire communication intercepted by any means authorized by this part shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire communication under this subsection shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the court issuing such order and sealed under the court's directions. Custody of the recordings shall be wherever the court orders. Recordings and other evidence of the contents of conversations and applications and orders shall be destroyed upon the expiration of the statute of limitations of the particular offense for which the order was issued: six years in the case of class A felonies and three years in the case of class B and C felonies. However, upon the request of all the parties to particular conversations, evidence of conversations between those parties shall be destroyed (i) if there are no incriminating statements; (ii) if any incriminating statements relate to only misdemeanor offenses; or (iii) if the interception of the conversations is determined to have been illegal. Duplicate recordings may be made for use or disclosure pursuant to the provisions of sections 803-45(1) and (2) for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire communication or evidence derived therefrom under section 803-45(3).

- (b) Applications made and order granted under this part, transcripts of hearings on applications, and evidence obtained through court-ordered wiretaps shall be sealed by the designated circuit court. Custody of the above shall be whenever the court directs.
- (c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying court.
- (d) Within a reasonable time but no later than ninety days after the termination of the period of an order or extensions thereof, the issuing court shall cause to be served, on the persons named in the order, on all other known parties to intercepted communications, and to such other

persons as the court may determine is in the interest of justice, an inventory which shall include notice of:

- (i) The fact of the entry of the order;
- (ii) The date of the entry and the period of authorized, or approved interception;
- (iii) The fact whether during the period wire communications were intercepted; and
- (iv) The fact whether any incriminating statements were intercepted.

The designated circuit court, upon the filing of a motion, shall make available to such person or his counsel for inspection after the inventory has been served all portions of the intercepted communications which contain conversations of that person, applications, orders, transcripts of hearings, and other evidence obtained as a result of the use of wiretap orders. The court may order such additional disclosure as the court determines to be in the interest of justice. On an ex parte showing of good cause to a court the serving of the inventory required by this subsection may be postponed.

(8) The contents of any intercepted wire communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in any court of this State unless each party, not less than thirty days before the trial, hearing or proceeding, has been furnished with copies of the documents required to be disclosed, and contents of intercepted communications or other evidence obtained as a result of wiretapping which is sought to be admitted in evidence. This thirty-day period may be shortened or waived by the court if it finds that the party will not be prejudiced by the delay in receiving such information.

(9) (a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire communication, or evidence derived therefrom, on the grounds that:

- (i) The communication was unlawfully intercepted;
- (ii) The order of authorization or approval under which it was intercepted is insufficient on its face; or
- (iii) The interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceedings unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this part. The court, or other official before whom the motion is made, upon the filing of such motion by the aggrieved person, shall make available to the aggrieved person or his counsel for inspection portions of the recording which contain intercepted communications of the defendant or evidence derived therefrom, the applications, orders, transcript of



hearing, and such additional evidence as the court determines to be in the interest of justice.

(b) In addition to any other right to appeal the State shall have the right to appeal:

- (i) From an order granting a motion to suppress made under paragraph (a) of this subsection if the attorney general or prosecuting attorney, or their designated representatives, shall certify to the court or other official granting such motion that the appeal shall be taken within thirty days after the date the order of suppression was entered and shall be diligently prosecuted as in the case of other interlocutory appeals or under such rules as the supreme court may adopt;
- (ii) From an order denying an application for an order of authorization or approval, and such an appeal shall be *in camera* and in preference to all other pending appeals in accordance with rules promulgated by the supreme court.

**Sec. 803-47 Reports concerning intercepted wire communications.** (1) In January of each year, the attorney general and county prosecuting attorneys of this State shall report to the administrative director of the courts of this State and to the administrative office of the United States Courts:

- (a) The fact that an order or extension was applied for;
- (b) The kind of order or extension applied for;
- (c) The fact that the order or extension was granted as applied for, was modified, or was denied;
- (d) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (e) The offense specified in the order or application, or extension of an order;
- (f) The identity of the investigative or law enforcement officer and agency requesting the application and the person authorizing the request for application;
- (g) The nature of the facilities from which or the place where communications were to be intercepted;
- (h) A general description of the interceptions made under such order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, and (iv) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;
- (i) The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;
- (j) The number of trials resulting from such interceptions;
- (k) The number of motions to suppress made with respect to such interceptions, and the number granted or denied;
- (l) The number of convictions resulting from such interceptions and the

offenses for which the convictions were obtained and a general assessment of the importance of the interceptions;

- (m) The information required by paragraphs (b) through (f) of this subsection with respect to orders or extensions obtained in a preceding calendar year and not yet reported; and
- (n) Other information required by the rules and regulations of the administrative office of the United States Courts.

(2) In March of each year the administrative director of the courts shall transmit to the legislature a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire communications and the number of orders and extensions granted or denied during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the administrative director of the courts by the attorney general and prosecuting attorneys.

**Sec. 803-48 Recovery of civil damages authorized.** Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this part shall (1) have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and (2) be entitled to recover from any such person:

- (a) Actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation;
- (b) Punitive damages; and
- (c) A reasonable attorney's fee and other litigation costs reasonably incurred.

A good faith reliance on a court order shall constitute a complete defense to any civil action brought under this part.

**Sec. 803-49 Severability.** If any portion or subsection of this part or the application thereof to any person or circumstances is invalid, such invalidity shall not affect other sections or applications of the part which can be given effect without the invalid section or application, and to this end the provisions of this part are declared to be severable.

**Sec. 803-50 Duration.** This Act shall be effective for a period of six years beginning \_\_\_\_\_ and terminating \_\_\_\_\_."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

A Bill for an Act Relating to a Crime Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 843, Hawaii Revised Statutes, is amended to read as follows:

## “CHAPTER 843 HAWAII CRIME COMMISSION

**Sec. 843-1 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Commission” means the Hawaii crime commission established by this chapter.

“Executive committee” means the executive committee of the Hawaii crime commission established by section 843-4.

**Sec. 843-2 Hawaii crime commission.** (a) For a thirty-six-month period commencing on July 1, 1977 and ending on June 30, 1980, there is established within the office of the lieutenant governor, for administrative purposes, the Hawaii crime commission.

(b) The commission shall be composed of twelve members, all of whom, with the exception of the chairman, shall be appointed by the governor, with the advice and consent of the senate, and to serve a term commencing on July 1, 1977 and ending on June 30, 1980. The members shall be representative of the population of the State. Any vacancy on the commission, except the chairmanship, shall be filled for the unexpired term by the governor, with the advice and consent of the senate. The chairman of the commission shall be appointed for a term commencing on July 7, 1979, and ending on June 30, 1980, by a two-thirds vote of each house in joint session of the senate and house of representatives; provided that the chairman of the commission on the effective date of this Act, shall continue to serve as chairman until such time as a successor is appointed. The legislature, by two-thirds vote of each house in joint session, may remove or suspend the chairman from office, but only for neglect of duty, misconduct, or disability and may fill any vacancy occurring in such office. The chairman shall have the power to vote only in the event of a tie vote.

(c) The members of the commission shall not be compensated for their services but the members and the chairman shall be reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses.

(d) The governor may remove or suspend for cause any member of the commission after due notice and public hearing conducted under chapter 91.

(e) The commission may receive and use gifts, money, services, or assistance from any federal, state, county, or private source for the implementation of the purposes of the Hawaii crime commission.

**Sec. 843-3 Hawaii crime commission chairman staff.** The chairman shall serve as the executive officer of the commission, and shall be vested with responsibility for the administrative function of the commission. The chairman shall authorize preliminary inquiry into projects and investigations. There shall be such additional necessary staff to carry out the functions of the commission, who shall be hired by and serve at the pleasure of the chairman, without regard to chapters 76 and 77. The persons so hired shall be entitled to participate in any employee benefit plan normally inuring to civil service employees, but shall not be considered civil service employees. This provision shall not affect the right of the chairman or commission to contract independently for services.

**Sec. 843-4 Committees.** (a) There shall be an executive committee of the commission which shall consist of two persons who shall be elected by the commission from among its members. It shall include, in addition, the chairman of the commission, and shall develop and identify general areas for commission study and review, and generally direct the work and activities of the commission.

(b) There shall be, in addition, other special and standing committees of the commission which shall address specific areas or tasks as assigned by the executive committee or by other agreement of the commission.

**Sec. 843-5 Commission, functions.** The commission shall have the following functions and shall perform the following duties:

- (1) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
- (2) Develop, recommend, and where appropriate, implement programs of public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid occurrence of crime, eliminate the possibility of becoming a victim of crime, and other information designed to defend against any aspect of crime;
- (3) Review and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police, and prosecutorial agencies;
- (4) Review and make recommendations regarding existing substantive laws, procedures, and practices in relation to criminal matters or procedures, and the justice systems;
- (5) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business, and other white collar crimes, and criminal activity;
- (6) Study, develop, and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
- (7) Report, to the legislature prior to the convening of each legislative session, on its activities of the preceding year and on a program of action for the coming year;
- (8) Investigate and collect evidence necessary to study criminal activity or the operation of the criminal justice system;
- (9) Hold public and closed hearings; and
- (10) Perform other functions and duties necessary to carry out the procedures established in section 843-6.

**Sec. 843-6 Conduct of business, procedures.** (a) Except where specifically otherwise provided by this chapter, the business and activities of the commission shall be conducted consistent with chapters 91 and 92. The commission shall possess all powers conferred under such chapters, including the power to subpoena persons and any documents whatsoever. The subpoena power shall be

exercised by the chairman of the commission, and such other person as he shall designate therefor and may be exercised in connection with a public or closed hearing or in connection with the commission's authority to investigate and collect evidence whether or not in connection with any hearing.

(b) The commission may hold closed hearings when matters are to be considered which, if made public, may threaten the effectiveness of a study of criminal activity or of the criminal justice system; provided that all other meetings or hearings shall be otherwise conducted in accordance with chapters 91 and 92.

(c) In performing the functions and duties under this chapter, the commission is empowered to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects, to the commission office or any place in the State whether or not the subpoena is in connection with any hearing, provided that the person or documents subpoenaed shall be relevant to a matter under study or investigation by the commission. Such books, papers, documents, or objects may be retained by the commission for a reasonable period of time for the purpose of examination, audit, copying, testing, and photographing. The subpoena power shall be exercised by the chairman of the commission, and such other person as he may designate. Upon application of the commission, obedience to the subpoena shall be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by a circuit court.

(d) Agencies of the state and county governments shall cooperate with the commission to the extent necessary for the commission to perform its duties.

**Sec. 843-7 Rules.** The commission may adopt, amend, or repeal rules it deems necessary for the performance of its functions and the implementation of the intent of this chapter. The rules shall be adopted in accordance with chapter 91.

**Sec. 843-8 Unauthorized disclosure; penalty.** Any commission member, except the chairman, staff member, or employee who, without authorization of the commission, discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be removed from the commission upon a finding by the majority vote of the commission members that he has made an unauthorized disclosure. Any commission member, including the chairman, staff member, or employee who, without authorization of the commission, wilfully discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be guilty of a Class C felony and shall be removed, section 843-2(b) to the contrary notwithstanding in the case of the chairman, or terminated in employment, as the case may be, in accordance with this section. As used in this section, "confidential information or matter" means information or matter the release of which constitutes a violation of the right of privacy, information or matter, the release of which would result in substantial detriment to the effectiveness of the commission or to its ability to secure information necessary to the performance of its functions, or information or matter, the release of which may endanger or otherwise compromise or prejudice the

rights, interests, safety, or privacy of any person who has assisted the commission in its work."

SECTION 2. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-3 Employment of attorneys.** No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund;
- (6) To the Hawaii crime commission;
- (7) In the event the attorney general, for reasons deemed by him good and sufficient, declines such representation or counsel, or approves such department's expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full time basis, except attorneys employed by the Hawaii crime commission, shall become a deputy attorney general."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$165,000, or so much thereof as may be necessary, for the purposes of this Act, to be expended by the office of the lieutenant governor for the fiscal year 1978-1979. Any unexpended or unencumbered balance as of the close of business on June 30, 1979, shall lapse into the general fund.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

A Bill for an Act Relating to Liability for Theft by Shoplifting.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

SECTION 1. Section 571-48, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected.** When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon such decree the court shall, by order duly entered, proceed as follows:

- (1) As to a child adjudicated under section 571-11(1);
  - (A) The court may place the child on probation in his own home or in the custody of a suitable person elsewhere, upon conditions determined by the court.
  - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in the Hawaii youth correctional facility, in a local public agency or institution or in any private institution or agency authorized by the court to care for children; or place him in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department.
  - (C) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine.
- (2) As to a child adjudicated under section 571-11(2):
  - (A) The court may place the child under protective supervision, as hereinabove defined, in his own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.
  - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the state to care for children, with the exception of an institution primarily for the care and treatment of children committed under section 571-11(1) or in any private agency or institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by the state's department of social services or other<sup>†</sup> that the child may not be committed to a public or private institution operated solely for the treatment of law violators.
- (3) An order vesting legal custody in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall

<sup>†</sup>It appears that some words are missing at this point. The section prior to amendment by this Act contained the words "equivalent department; provided, however,".

not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court may, after notice to the parties, conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.

- (4) Whenever the court commits a child to the care of the director of social services or vests legal custody of a child in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this [subsection] paragraph shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized under section 352-27.
- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law.
- (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child.
- (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having the custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. If such persons fail to comply with the requirement, the court may proceed against them for contempt of court.
- (8) In support of any order of decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other.



- (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.
- (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 221

H.B. NO. 2687-78

A Bill for an Act Relating to Property Rights.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-800, Hawaii Revised Statutes is amended by adding a new definition to be appropriately inserted and to read as follows:

"(24) "Master key" means a key which will operate two or more locks to different apartments, offices, hotel rooms or motel rooms in a common physical location."

SECTION 2. Section 708-812, Hawaii Revised Statutes is amended to read as follows:

"**Sec. 708-812 Possession of burglar's tools.** (1) A person commits the offense of possession of burglar's tools if:

- (a) He knowingly possesses any explosive, tool, instrument, or other article adapted, designed, or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking, and he intends to use the explosive, tool, instrument, or article, or knows some person intends ultimately to use it, in the commission of the offense of the nature described aforesaid; or
- (b) He knowingly possesses any master key, unless authorized, and he intends to use the master key or knows some person intends ultimately to use it, in the commission of an offense involving entry into premises or theft by physical taking.
- (2) Possession of burglar's tools is a misdemeanor.
- (3) A master key taken in evidence shall be impounded by the court and returned to the owner of the locks or premises which the key operates."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

\*Edited accordingly.

A Bill for an Act Relating to the Statewide Traffic Code Concerning Penalties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to decriminalize all traffic offenses, other than those of a serious nature, to the status of violations. Pursuant to section 706-605(2) of the Hawaii Penal Code, the court may suspend the imposition of sentence on a person who has been convicted of a violation or may sentence him to pay a fine authorized by part III of chapter 605 of the Code. Thus this Act will eliminate the criminal penalties of imprisonment, probation and restitution for all but serious traffic violations such as those concerning accidents involving death or personal injuries, false reports, or overtaking and passing a stopped school bus.

SECTION 2. Section 291C-161, Hawaii Revised Statutes, is amended to read:

**"Sec. 291C-161 Penalties.** (a) It is a violation for any person to violate any of the provisions of this chapter except as otherwise specified in subsection (c) of this section and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsection (c) of this section, every person who violates any provision of this chapter for which another penalty is not provided, shall for a first conviction thereof be fined not more than \$100; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 provided that upon a conviction for a violation of section 291C-12, the person shall be sentenced in accordance with section 291C-12.

(c) Every person who violates section 291C-13, 291C-14, 291C-18, 291C-37, 291C-43, 291C-44, 291C-45, 291C-46, 291C-47, 291C-48, 291C-50, 291C-51, 291C-65, 291C-72, 291C-73, 291C-74 or 291C-95 of this chapter shall for a first conviction thereof be fined not more than \$100 or imprisoned not more than ten days; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200 or imprisoned not more than twenty days, or by both fine and imprisonment; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 or imprisoned not more than six months, or by both fine and imprisonment.

(d) The courts may assess a sum not to exceed \$25 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to him for any traffic violation."

SECTION 3. Section 286-128, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 286-128 Point system for evaluation of operating records of all persons operating motor vehicles and for determination of their continuing**

**qualifications.** (a) There is established a point system for the evaluation of the operating records of all persons operating motor vehicles and for the determination of the continuing qualifications of such persons to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations of the traffic laws of the State and of traffic ordinances of its counties to be imposed by the district judge in accordance with the following schedule of minimum and maximum points:

- (1) Driving while under the influence of intoxicating liquor . . . . . 4 to 8
- (2) Reckless driving . . . . . 3 to 6
- (3) Driving while license suspended or revoked (includes court conviction as well as safety responsibility violations) . . . . . 3 to 6
- (4) Fraudulent use of license . . . . . 3 to 6
- (5) Excessive speeding (fifteen miles or more over the established speed limit) . . . . . 3 to 6
- (6) Leaving scene of accident . . . . . 3 to 6
- (7) Speeding (ten miles or more over the established speed limit) . . . . . 1 to 4
- (8) Failure to report accident immediately . . . . . 1 to 4
- (9) Driving on left side of roadway . . . . . 0 to 4
- (10) Inattention to driving; negligent driving . . . . . 1 to 4
- (11) Permitting unlicensed driver to drive . . . . . 1 to 4
- (12) Following too closely . . . . . 1 to 3
- (13) Disregarding stop signs . . . . . 1 to 3
- (14) Right of way violations . . . . . 0 to 3
- (15) Disregarding traffic control signals . . . . . 1 to 3
- (16) Unlawful passing . . . . . 0 to 3
- (17) Unsafe changing of lanes . . . . . 0 to 3
- (18) Crossing solid or double lines . . . . . 0 to 3
- (19) Impeding traffic . . . . . 0 to 2
- (20) Improper turning . . . . . 0 to 2
- (21) Unsafe emergence from parked position . . . . . 0 to 2
- (22) Disregarding pavement markings . . . . . 0 to 2
- (23) Unsafe movements . . . . . 0 to 2
- (24) Stopping at medial openings . . . . . 1 to 2
- (25) Improper emergence from private driveway . . . . . 1 to 2
- (26) Unattended motor vehicle (if motor running) . . . . . 1 to 2
- (27) Violation of pedestrian's right of way . . . . . 1 to 2
- (28) Unsafe equipment on vehicle . . . . . 0 to 2
- (29) Faulty brakes . . . . . 0 to 2
- (30) Driving with improper lights . . . . . 0 to 2
- (31) Operating or carrying a passenger on a motor scooter or motorcycle without safety helmet or, in absence of windscreen or windshield, without eye and face protective devices or other protective devices required by the state highway safety coordinator . . . . . 0 to 2
- (32) Driving after failure to renew license . . . . . 0 to 2
- (33) Operating a motorcycle or motor scooter while carrying as a passenger or permitting to ride thereon a person under the age of seven years . . . . . 0 to 2

- (34) Failure to report to the district court for a review of driving record or failure to attend required driving retraining course . . . . . 0 to 2

SECTION 4. Section 286-128, Hawaii Revised Statutes, is amended by amending subsection (m) to read as follows:

“(m) Upon determination and order by a district judge that a person has accumulated six points within a twelve-month period, the licensee shall report in person for a review of his driving record with the judge as directed by the judge if the licensee is present in court. If the licensee is not present in court when the district judge makes a determination and order that the licensee has accumulated six points within a twelve-month period and is directed to report in person for a review of his driving record, then the clerk of the district court shall notify the licensee in writing by certified mail, return receipt requested, to addressee only, that the licensee is directed to report in person, within fifteen days after receipt of the notice to report, for a review of his driving record with the judge. At the review, the judge may order a licensee who has accumulated six points within a twelve-month period to attend a course of instruction in driving retraining by a designated driver instructor or driver training school. Any person who fails to report in person for a review of his driving record with the judge as required by this subsection or who fails to attend a course of instruction in driver retraining pursuant to the order of the judge as required by this subsection shall be fined not more than \$100 or shall have his license suspended not more than one year, or both.”

SECTION 5. Section 286G-3, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 286G-3 Fines.** (a) A fine of \$1 shall be levied on a finding that a violation occurred of a statute or county ordinance relating to vehicles or their drivers or owners, except (1) offenses relating to stopping (when prohibited), standing, or parking; (2) offenses relating to registration; and (3) offenses by pedestrians.

(b) The fine levied by subsection (a) shall be paid for each violation in addition to any fine imposed by the court, and whether or not such fine is suspended.

(c) The amount of the fine shall be transmitted by the clerk of the court for deposit in the driver education and training fund.”

SECTION 6. Section 291-23, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 291-23 Penalty.** Whoever is convicted of violating any of the provisions of section 291-22 shall be fined not more than \$100.”

SECTION 7. Section 291-24, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 291-24 Motorcycles, noisy mufflers; penalty.** Every motorcycle moving under its own power on a public highway shall at all times be equipped with a muffler in constant operation to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device. No person shall modify the exhaust system of a motorcycle in a manner

which will amplify or increase the noise emitted by the motor of such motorcycle above that emitted by the muffler originally installed on the motorcycle. A muffler is a device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas from the engine of the motorcycle, and effective in reducing noise.

Whoever violates this section shall be fined not more than \$100."

SECTION 8. Section 291C-22, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 291C-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-23 Obedience to police officers.** It shall be a petty misdemeanor for any person to wilfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control, or regulate traffic."

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 11. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 223

H.B. NO. 2611-78

A Bill for an Act Relating to Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 416, Hawaii Revised Statutes, is amended to read as follows:

I. By adding three new sections to be appropriately designated and to read:

**"Sec. 416- Directors' telephone meetings.** Unless prohibited by the articles of association, charter, or bylaws, and subject to provisions therein relating to notice, members of the board of directors or any committee designated thereby may participate in a meeting of such board or committee by means of a conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

**"Sec. 416- Equal division of directors; appointment of provisional director; qualifications; rights and powers; compensation.** (a) If a corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its business can no longer be conducted to advantage or so that there is danger that its property and business will be impaired or lost, any circuit judge of the circuit where the corporation has its prin-

\*Edited accordingly.

cipal office or any circuit judge of the first circuit may, notwithstanding any provisions of the articles or bylaws and whether or not an action is pending for an involuntary dissolution of the corporation, appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director or by stockholders or members holding not less than thirty-three and one-third per cent of the voting power.

(b) A provisional director shall be an impartial person, who is neither a stockholder or member nor a creditor of the corporation, nor related by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which such provisional director is appointed. A provisional director shall have all the rights and powers of a director until the deadlock in the board or among the stockholders or members is broken or until such provisional director is removed by order of the court or by approval of stockholders or members holding a majority of the voting power. Such person shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.

**Sec. 416- Court's appointment of directors on petition.** If a corporation has not issued shares and all the directors resign, die, or become incompetent, or in the case of a nonprofit corporation if a corporation has no members other than the directors and all the directors resign, die, or become incompetent, any circuit judge of the circuit where the corporation has its principal office or any circuit judge of the first circuit may appoint directors of the corporation upon petition of a creditor of the corporation or of the personal representative of a deceased director or of the guardian or conservator of an incompetent director."

2. By amending Section 416-4, Hawaii Revised Statutes, to read:

**"Sec. 416-4 Directors, qualifications of.** The directors of every corporation shall be one or more in number, and not less than one member of every board of directors shall be a resident of the State. In the absence of one such member no board of directors shall function."

3. By amending section 416-11 to read:

**"Sec. 416-11 Creation by articles of incorporation.** Any number of persons not less than one desiring to form a corporation shall execute articles of incorporation and acknowledge the same before any officer authorized to take acknowledgments. The articles shall contain the following particulars:

- (1) The name of the corporation, which shall include as the last word thereof the word "Limited", "Incorporated", or "Corporation" or the abbreviation "Ltd.", "Inc.", or "Corp.";
- (2) The place of its principal office in Hawaii and also the street or mailing address of the initial office;
- (3) The purposes and powers of the corporation;
- (4) The number of shares of each class of stock that the corporation is authorized to issue, the aggregate par value, if any, of each class of stock, and the par value of each share or that the shares are without par value; and, if the privilege of subsequent extension of the authorized capital stock is reserved, the limit of the extension;

- (5) The number of directors, which shall [be]<sup>†</sup> not less than one, and the names and street or mailing addresses of the initial officers and directors;
  - (6) If the corporation is to issue initially more than one class of stock, the preferences, privileges, powers, rights, and qualifications of the shares other than common shares having full voting rights;
  - (7) Any other lawful provisions which may be desired by the corporation for the purpose of defining, limiting, or regulating the powers of the corporation and the powers and duties of its board of directors.
4. By amending section 416-23 to read:

**“Sec. 416-23 Amendments of charters and articles.** Subject to the provisos set forth in this section, the articles of association or charter of any corporation may be amended by the vote of the holders of not less than two-thirds of all of its stock issued and outstanding and having voting power, or by such larger vote as may be required by the articles of association or charter, at a meeting duly called and held for the purpose, or, in case of a nonstock corporation, by the vote of not less than two-thirds of the members present at a meeting duly called and held for the purpose. No amendment shall be effective unless there is filed in the office of the director of regulatory agencies a verified certificate, signed by any two authorized officers of the corporation, setting forth the amendment by stating that the articles of association or charter has been amended to read as set forth in the certificate in full or by stating that any provision of the articles of association or charter, which shall be identified by the numerical or other designation thereof in the articles of association or charter or by stating the wording thereof, has been amended to read as set forth in the certificate, and certifying that the amendment was adopted by the required vote as aforesaid at a meeting duly called and held for the purpose. Any amendment so adopted shall become effective and the articles of association or charter shall be amended on the date of filing of the certificate of amendment or on such later date as specified in the certificate of amendment. Any provision of this section to the apparent contrary notwithstanding, (1) no amendment shall confer any other or greater powers or privileges than could lawfully be conferred or obtained in an original charter or articles of association; (2) no amendment changing the name of the corporation shall become effective until the director has determined that the amendment is not in conflict with section 416-12; (3) no amendment to the charter of a nonprofit corporation shall become effective until the same is allowed by the director; and (4) if an amendment would make any change which would adversely affect the rights of the holders of shares of any class, then the holders of each class of shares so affected by the amendment shall be entitled to vote as a class upon the amendment, regardless of other limitations or restrictions on the voting power of the class, and in addition to the vote otherwise required, a vote of the holders of two-thirds of each class so affected by the amendment shall be necessary to the adoption thereof. There may be filed in the office of the director at any time a copy, verified by any two officers of the corporation by authority of its board of direc-

<sup>†</sup> Bracketed word has been added.

tors, of the articles of association or charter of the corporation restated to include all amendments to and including the date of the verification and upon filing the restated articles of association or charter shall be and become the articles of association or charter of the corporation.”

5. By amending section 416-64 to read:

**“Sec. 416-64 Increase of capital, authorization; certificate to be filed with director.** No increase or extension of the capital stock of any corporation organized under the laws of the State, having authority under its articles of association or charter to increase its capital stock, shall be legal and effective unless the increase or extension has been authorized by a vote of not less than two-thirds of all of the shares of stock issued and outstanding and having voting power, at any meeting duly called and held for the purpose; and unless a verified certificate has first been filed with the director of regulatory agencies, signed by any two authorized officers of the corporation, showing that the meeting had been properly called and held; that the increase or extension had been authorized by the required vote; and showing also (1) the present authorized capital stock of the corporation; (2) the amount to which the capital stock thereof may be increased or extended under its articles of association or charter; (3) the amount of increase or extension of the capital stock duly authorized by its stockholders; and (4) in the case of stock having a par value, that not less than ten per cent of the total authorized stock as increased has been paid in, in cash or property, or that the corporation holds cash or property of a value equal to ten per cent of the total authorized stock as increased. The certificate shall be accompanied by payment of the fee required to be paid upon the amount of increase so authorized. The director shall not receive or file the certificate without the payment. The increase of capital shall become effective and the capital of the corporation shall be and become increased on the date of filing of the certificate prescribed by this section or on such later date as shall be specified in the certificate.”

6. By amending subsection (b) of section 416-65 to read:

**“(b) What vote necessary.** Any reduction of capital or capital stock shall require the affirmative vote of the holders of not less than two-thirds of all of the shares of stock of the corporation issued and outstanding and having voting power, provided that in case shares of any class of stock of a corporation are subject to redemption or are convertible into shares of any other class of stock of the corporation pursuant to the charter or articles of association of the corporation or in a resolution, a certified copy of which is filed in the office of the director pursuant to section 416-58, and if the provisions specify that all or any part of the shares of the class may be redeemed or converted pursuant to the determination other than by vote of stockholders as aforesaid, whether by the board of directors or by the vote of any different percentage of stockholders or of any class or classes thereof or as fixed in the charter or articles of association or in the resolution authorizing the issue of the stock, then any reduction of the capital or capital stock of the corporation by the redemption of all or any part or by the conversion of all of the shares of such class shall not require the vote of stockholders as aforesaid, but may be effected pursuant to determination made or fixed as specified in such provisions. Any reduction of the capital or capital stock of a corporation pursuant to this subsection shall be subject to subsection (g).”



7. By amending section 416-91 to read:

**"Sec. 416-91 Of directors or managers; dividends.** The directors or managers of any corporation may authorize the payment of dividends in cash or in property owned by the corporation only from the profits and earned surplus of the corporation and only when the corporation does not have and the payment of a dividend would not create a capital deficit; provided that the foregoing shall not be interpreted to prohibit any distribution of assets permitted by section 416-65, upon the reduction of the capital stock of a corporation, or to prohibit a distribution and division of the balance of the assets of the corporation in accordance with law, upon the dissolution of a corporation or the expiration of its charter or pursuant to a plan of complete liquidation adopted by the stockholders of the corporation (even though the distribution may be prior to the formal dissolution of the corporation under section 416-121) if all of the assets of the corporation are distributed in complete liquidation (less assets retained to meet claims) within the twelve-month period beginning on the date of the adoption of such plan. The directors or managers of any corporation may authorize the payment of dividends in shares of the authorized capital stock of the corporation only from the earned surplus or paid-in or contributed surplus or other surplus of the corporation, and the shares issued by the stock dividend shall be fully paid and non-assessable to the extent of the amount of surplus capitalized by the issuance thereof; provided that no stock dividend shall be paid by a fiduciary company without the approval of the director of regulatory agencies. In case of any dividend payment or other distribution of assets in violation of this section, the directors or managers, under whose administration the same may have taken place and who have authorized the same, shall in their individual and private capacities be jointly and severally liable to the corporation and the creditors thereof, in the event of its bankruptcy or insolvency, or in the event of its dissolution, for the loss suffered by reason of the payment or other distribution in an amount not exceeding the amount so paid or distributed.

Nothing in this chapter shall be deemed to prohibit the distribution of assets to stockholders permitted or authorized by the Federal Housing Commissioner by any corporation organized for the purpose of providing housing for rent pursuant to regulations of the Federal Housing Commissioner under the provisions of Title VIII of the National Housing Act, as amended, where the principal assets of the corporation consist of real property belonging to the United States and leased to the corporation pursuant to Title VIII of the National Housing Act as amended or supplemented from time to time."

8. By amending Section 416-81 to read:

**"Sec. 416-81 Meeting called by circuit judge, when.** Whenever, by reason of the death, absence, or other legal impediment of the officers of any corporation, there is no person duly authorized to call or preside at a legal meeting thereof, any circuit judge of the circuit where the corporation has its principal office or any circuit judge of the first circuit, may, on written application of any member or stockholder thereof, issue an order to any of the members or stockholders directing him or her to call a meeting of the corporation by giving such notice as is required by the bylaws of the corporation. The judge may, in the same order,

direct one of the members or stockholders to preside at the meeting, and any meeting held pursuant to the order shall be valid."

SECTION 2. Section 417-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 417-4 Authorization of stockholders.** Either before or after the approval of the proposed agreement by the board of directors, meetings of the stockholders of each constituent corporation shall be called, and at each meeting the proposed merger or consolidation agreement shall be considered. A written notice setting forth the time, place, and purpose of meeting, and either a copy of the proposed agreement or a statement of the general terms thereof, and stating the date on which the notice is mailed, shall be mailed, postage prepaid, at least thirty days prior to the date of the meeting, to every stockholder at his last known address appearing on the books of the corporation. Before any merger or consolidation agreement becomes effective, the agreement shall be approved or authorized by the vote of the holders of not less than three-fourths of all the issued and outstanding shares of stock having voting power, even though their right to vote is otherwise restricted or denied by the charter, articles, bylaws, or resolution of the constituent corporation.

The approval of the stockholders of each constituent corporation may be given at the meeting, or any adjournment thereof which may be held, either before or after the approval of the agreement by the board of directors, and the stockholders may by resolutions approved by the vote required in the preceding paragraph adopt modifications of or amendments to the proposed agreement, and may authorize the board of directors of the corporation to make modifications or amendments of the proposed agreement as the board of directors deems proper to the extent provided for in the resolutions without further stockholders' approval. Upon the approval or authorization of the merger or consolidation, unless the approval or authorization is given by the holders of all shares owned and outstanding, the officers shall mail to each stockholder notice that the merger or consolidation agreement has been approved or authorized.

The stockholders of each constituent corporation may at the stockholders' meetings adopt proposed bylaws for the consolidated corporation, which shall be deemed to be the bylaws of the consolidated corporation upon the filing of the consolidation agreement in the office of the director of regulatory agencies as hereinafter provided, or the bylaws may be adopted at a stockholders' meeting of the consolidated corporation after the filing of the agreement."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

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\*Edited accordingly.

ACT 224

S.B. NO. 2545-78

A Bill for an Act Relating to Probation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-624, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) When the court sentences a person who has been convicted of a misdemeanor to be placed on probation, it may require him to serve a term of imprisonment not exceeding six months as an additional condition of its order. When the court sentences a person who has been convicted of a felony to be placed on probation, it may require him to serve a term of imprisonment not exceeding one year as an additional condition of its order. The court may order that the term of imprisonment be served intermittently.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 225

H.B. NO. 1430

A Bill for an Act Relating to Criminal Appeals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 641-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The filing of a notice of appeal or the giving of oral notice in open court at the time of sentence by the defendant or his counsel of intention to take an appeal may operate as a stay of execution and may suspend the operation of any sentence or order of probation, in the discretion of the trial court. If the court determines that a stay of execution is proper, the court shall state the conditions under which the stay of execution is granted. No stay granted on the giving of oral notice shall be operative beyond the time within which an appeal may be taken; provided that if an appeal is properly filed, the stay shall continue in effect as if the stay was based on a filing of the appeal.

The court may revoke the stay of execution or amend the conditions thereof for a violation of the conditions of the stay of execution.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

\*Edited accordingly.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 226

H.B. NO. 1769-78

A Bill for an Act Relating to the Compensation of Certain Persons Under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of compensating the following named persons and providers of services pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set out opposite their respective names:

ACOBA, Simeon	\$ 250.00
Case No. 76-125 (Attorney for Willie Jones)	
AGMATA, Victor Jr.	50.00
Case No. 76-151 (Attorney for Fidel Cabanilla Jr.)	
AGMATA, Victor Jr.	200.00
Case No. 76165 (Attorney for Vicente Fiesta)	
AGMATA, Victor Jr.	60.00
Case No. 76197 (Attorney for Aurelio Agpaoa)	
AGMATA, Victor Jr.	25.00
Case No. 76202 (Attorney for Jose Aguinaldo)	
AGMATA, Victor Jr.	75.00
Case No. 76-206 (Attorney for Rogelio Amian)	
AGMATA, Victor Jr.	35.00
Case No. 76-207 (Attorney for Juana Bumanglag)	
AGMATA, Victor Jr.	75.00
Case No. 76-235 (Attorney for Tommy Tugaoen)	
AGMATA, Victor Jr.	75.00
Case No. 77-46 (Attorney for Alfredo Botacion)	
AGMATA, Victor Jr.	35.00
Case No. 77-105 (Attorney for Ben Manayan)	
AGPAOA, Aurelio	457.40
Case No. 76-197	
AGUINALDO, Jose L.	178.29
Case No. 76-202	
ALBARADO, Claire	500.00
Case No. 76-216	
AMIAN, Rogelio S.	635.28
Case No. 76-206	
ANDERSON, Audrey Fox	125.00
Case No. 76-111 (Attorney for Ruth Staub)	
ARAKAKI, Carl	184.36
Case No. 76-241	
ARAKAKI, Gene	750.00
Case No. 77-41	
AU, Ronald	400.00
Case No. 75-195 (Attorney for Susan Ching)	
AU HONG, Cynthia	527.50
Case No. 75-169	

AYALA, Daniel	300.00
Case No. 77-25	
BACHILLER, Domingo	177.04
Case No. 77-158	
BARNES, Dr. Charles	42.86
Case No. 76-188	
BAPTISTA, Cesar B.	200.00
Case No. 76-264	
BARROZO, Joseph I. Jr.	588.29
Case No. 75-232	
BECHERT, Maile Ann	841.35
Case No. 74-44	
BENSON, Dr. Homer	37.44
Case No. 76-270	
BERUTTI, Isadore	806.30
Case No. 76-144	
BORTHWICK MORTUARY LTD.	440.00
Case No. 74-141 (Funeral Expenses)	
BETTERS, Garie F.	75.00
Case No. 77-117	
BOHNER, Vivian	1,070.44
Case No. 75-92	
BORTHWICK MORTUARY LTD.	1,162.00
Case No. 75-216 (Funeral Expenses)	
BOTACION, Alfredo	563.98
Case No. 77-46	
BRIDGES, Gene	150.00
Case No. 74-144 (Attorney for Ruth Rhodes)	
BUMANGLAG, Juana	406.06
Case No. 76-207	
CABANILLA, Fidel L. Jr.	656.86
Case No. 76-151	
CARLE, Kathleen	1,000.00
Case No. 76-37	
CARVALHO, Roy	863.38
Case No. 77-39	
CHANG, Louis L. C.	125.00
Case No. 76-191 (Attorney for Carolyn Harp)	
CHANG, Vernon C. H.	3,407.01
Case No. 76-124	
CHING, Susan	9,095.00
Case No. 75-195	
CHOCK-PANG CLINIC	143.33
Case No. 77-55 (Medical Services)	
COSTA, Viola Mae	1,452.22
Case No. 75-45	
CUSMIANO, Roman	100.00
Case No. 77-67	
DALRYMPLE, Joseph	79.58
Case No. 76-246	
DAMAS, Doreen	2,756.89
Case No. 76-247	
DANG, Dr. William	842.09
Case No. 76-125 (Medical Services)	
DANIEL, Suzanne M.	3,000.00
Case No. 75-147	

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DASALIA, Leoncia	1,515.72
Case No. 77-33	
DENIS, Carol A.	1,980.29
Case No. 76-89	
DOMINQUEZ, Manuel	25.00
Case No. 76-278	
DUARTE, Antone	2,250.00
Case No. 76-195	
DUNN, Virginia A.	1,200.00
Case No. 76-243	
DUX, Kimberley C.	25.00
Case No. 76-242	
DYLL, Soo Kun	460.00
Case No. 76-253	
EDAYAN, Elias	264.93
Case No. 76-100	
ELAYDO, Augustin E.	1,009.82
Case No. 76-227	
ENOS, Angeline K.	1,895.44
Case No. 75-109	
EUBANK, Robert G.	1,037.02
Case No. 77-123	
FERNANDEZ, Silvestre	2,891.55
Case No. 76-192	
FERREIRA, George W.	250.00
Case No. 75-90	
FIESTA, Vicente M.	3,253.69
Case No. 76-165	
FORD, Calvin L.	254.00
Case No. 77-55	
FOSTER, Rick	250.00
Case No. 77-91	
FRANCISCO, Solidad	1,335.00
Case No. 74-141	
FREEBURN, Gladys M.	217.65
Case No. 77-49	
FREITAS, Carla	9,595.00
Case No. 76-84	
FRONK CLINIC-PEARL RIDGE	80.60
Case No. 77-94 (Medical Services)	
FU, Eugene Y. L.	346.25
Case No. 76-254	
GAIDRICH, Deborah	25.00
Case No. 76-273	
GEDAN, Sharon	154.00
Case No. 74-144 (Medical Services)	
GIBSON, Dr. Robert M.	1,505.92
Case No. 77-138 (Medical Services)	
GLOECKNER, Bernard	75.00
Case No. 76-88	
GOEHL, Russell	100.00
Case No. 75-196 (Attorney for Clinton Hemphill)	
GOLDSMITH, Stephen	150.00
Case No. 77-8 (Attorney for Wayne Kitzmiller)	
GOO, Edwina S. H.	844.50
Case No. 76-149	

GRAHAM, David	50.00
Case No. 77-97	
GREEN, George W. Jr.	812.20
Case No. 76-182	
GREEN, George W. Jr.	70.80
Case No. 76-183	
GREENHAVEN MEMORIAL PARK	325.00
Case No. 74-141 (Funeral-Burial Expenses)	
HALL, Gary C.	1,675.00
Case No. 76-134	
HAOLE, Karen	9,745.00
Case No. 76-214	
HARP, Carolyn S.	988.67
Case No. 76-191	
HAWORTH, Virginia M.	676.00
Case No. 75-207	
HEMINGWAY, Helen	197.08
Case No. 77-122	
HEMPHILL, Clinton A.	718.30
Case No. 75-196	
HIGA, Richard S.	3,089.87
Case No. 75-123	
HOEFT, Henry W. Sr.	2,412.47
Case No. 77-103	
HOLLENBERG, Helen H.	1,873.56
Case No. 75-89	
HOMPANERA, Segundoc	50.00
Case No. 77-85	
ING, John E.	238.18
Case No. 75-142	
INTERNIST CLINIC INC.	336.26
Case No. 76-125 (Medical Services)	
IONA, Elizabeth	6,821.50
Case No. 76-90	
ISABEL, John	250.00
Case No. 77-32	
JENSEN, Frederick D. Jr.	380.00
Case No. 76-233	
JOHNSON, Alvey	1,000.00
Case No. 75-226	
JOHNSON, Barbara B.	474.24
Case No. 76-73	
JONES, Willie Jr.	3,044.52
Case No. 76-125	
KAGEHIRO, Susan K.	75.00
Case No. 77-88	
KAISER MEDICAL CENTER	5.00
Case No. 76-172 (Medical Services)	
KAISER MEDICAL CENTER	33.30
Case No. 76-188 (Medical Services)	
KAISER MEDICAL CENTER	5.00
Case No. 76-207 (Medical Services)	
KASS, Lorri	806.75
Case No. 77-98	
KAWAHARA, Kathy K.	111.00
Case No. 76-122	

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KEAUNUI, Eldon	1,826.63
Case No. 76-217	
KELLY, Conley	900.00
Case No. 76-103	
KELSO, SPENCER, SNYDER & STIRLING	125.00
Case No. 75-99 (Attorney for Thelma Raygoza)	
KEYES, Verna	28.40
Case No. 76-75	
KIM, Sin Bok	1,845.77
Case No. 74-47	
KINOSHITA, Takao	500.00
Case No. 76-185	
KITZMILLER, Wayne	850.00
Case No. 77-8	
KNODLE, Ruth E.	2,712.40
Case No. 75-116	
KO, Garret H. K.	1,060.80
Case No. 75-147 (Medical Services)	
KOBAYASHI, Gerald W.	50.00
Case No. 77-79	
KONNO, Mitsue	1,029.20
Case No. 77-31	
KUAKINI MEDICAL CENTER	24.00
Case No. 76-125 (Medical Services)	
LANSING, Richard O.	25.00
Case No. 77-121	
LAU, Elata	315.00
Case No. 76-266	
LEE, Won Hwa	866.76
Case No. 76-115	
LEE LOY, Emmett, E.	300.00
Case No. 77-53	
LEEWARD CLINIC	27.04
Case No. 77-38 (Medical Services)	
LEEWARD FUNERAL HOME	728.00
Case No. 75-180 (Funeral Expenses)	
LEEWARD HOSPITAL	35.90
Case No. 75-180 (Medical Services)	
LEEWARD HOSPITAL	14.50
Case No. 77-38 (Medical Services)	
LE GROS, Elizabeth	1,043.00
Case No. 77-59	
LERMA, Lesley	500.00
Case No. 77-197	
L'HOMMEDIEU, Susan L.	1,650.00
Case No. 77-68	
LINNEMANN, Deborah	1,800.00
Case No. 75-220	
LIU, Run Kung	350.00
Case No. 76-221	
LYONS, Sean	50.00
Case No. 77-16	
MacROBBIE, Donald S.	1,000.00
Case No. 77-132	
MAGER, Robert	425.68
Case No. 76-238	



MAHUKONA, David D. Case No. 76-172	891.00
MANAYAN, Ben Case No. 77-105	433.26
MANLEY, Bruce H. Case No. 76-267	633.95
MARQUARDT, Elizabeth Case No. 76-188	550.00
MARUMO, Thelma O. Case No. 76-174	300.00
MATSUOKA, Takao Case No. 75-143	150.00
MAUI MEMORIAL HOSPITAL Case No. 77-8 (Medical Services)	1,881.85
MAUI MEMORIAL HOSPITAL Case No. 77-28 (Medical Services)	216.60
McKENZIE, Joan M. Case No. 76-57	4,269.97
McLEAN, William S. Case No. 76-137	50.00
MEDICAL ANESTHESIA Case No. 76-125 (Medical Services)	230.00
MILILANI MEMORIAL PARK & MORTUARY Case No. 75-180 (Funeral-Burial Expenses)	2,691.06
MILLS, Dr. John F. Case No. 77-28 (Medical Services)	9.10
MIRIKITANI, Winston Case No. 76-28 (Attorney for Ruby Natoli)	150.00
MIRIKITANI, Winston Case No. 76-253 (Attorney for Soo Kun Dyll)	40.00
MIYASHIRO, Tsutomu Case No. 77-175	2,048.60
MORESCHI, Jean Case No. 76-232	500.00
MORGAN, Elizabeth J. Case No. 77-27	1,717.50
MORITA, Muriel Case No. 77-13	1,094.19
NATOLI, Ruby M. Case No. 76-28	713.05
O'CONNELL, Denise Case No. 76-41	3,000.00
OLSON, Marcia W. Case No. 77-6	321.11
ONO, Miles M. Case No. 75-193	1,118.39
ORNELLAS, Richard W. Case No. 76-262	1,965.27
OSLUND, Edwin K. Case No. 77-80	257.70
PANG, Margaret Lum Case No. 77-99	3,390.66
PARKER, Darcy Case No. 77-37	500.00
PEARL RIDGE HOSPITAL Case No. 77-94 (Medical Services)	580.75

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PHILLIPS, Jack A.	300.00
Case No. 75-56	
PULE, Pauline	25.00
Case No. 77-145	
QUEEN'S MEDICAL CENTER	84.06
Case No. 75-109 (Medical Services)	
QUEEN'S MEDICAL CENTER	12.40
Case No. 76-206 (Medical Services)	
QUEEN'S MEDICAL CENTER	180.00
Case No. 77-55 (Medical Services)	
QUEEN'S MEDICAL CENTER	29.00
Case No. 77-79 (Medical Services)	
QUEEN'S MEDICAL CENTER	182.65
Case No. 77-117 (Medical Services)	
RABAGO, George	900.00
Case No. 76-218	
RAEL, Edward L.	1,812.35
Case No. 76-252	
RAYGOZA, Thelma P.	1,000.00
Case No. 75-99	
REEVES, Robert K.	457.84
Case No. 77-87	
REYNOLDS, George	125.00
Case No. 77-106	
RHODES, Ruth C.	1,137.24
Case No. 74-144	
RIES, Helen V.	1,262.95
Case No. 77-152	
RIGGAN, Henritta	554.60
Case No. 76-270	
RIOPTA, Francisco	2,000.00
Case No. 77-134	
ROBELLO, John W. Jr.	1,626.32
Case No. 76-257	
ROKNICK, Gregory A.	500.00
Case No. 77-38	
ROMERO, Dr. Jose	48.37
Case No. 77-28 (Medical Services)	
RUIZ, Daniel	500.00
Case No. 77-156	
ST. FRANCIS HOSPITAL	4,773.94
Case No. 76-125 (Medical Services)	
ST. FRANCIS HOSPITAL	151.30
Case No. 76-270 (Medical Services)	
SAKODA, Dr. Thomas	67.60
Case No. 77-94 (Medical Services)	
SEITZ, Richard K.	1,176.84
Case No. 76-55	
SILVA, Jacob F.	400.00
Case No. 77-2	
SKAGGS, Suzanne	790.32
Case No. 77-131	
SMOLENSKI, Bonnie M.	3,950.60
Case No. 75-243	
SONGSTAD, Steven	100.00
Case No. -7-68 (Attorney for Susan L'Hommedieu)	

SPRIGGS, John J.	800.00
Case No. 76-263	
STAUB, Ruth V.	788.75
Case No. 76-111	
STEVENS, Margie	933.64
Case No. 75-175	
STOCKTON, Mary H.	225.00
Case No. 76-250	
STODD, Dr. Russell	18.78
Case No. 77-28 (Medical Services)	
TACANG, Santiago	1,588.34
Case No. 77-24	
TACDERAN, Federico Sr.	2,800.00
Case No. 77-28	
TAMAYOSE, Joan S.	1,860.78
Case No. 77-9	
TASHIMA, Milton H.	57.82
Case No. 77-112	
TAYLOR, Jeffrey M.	150.00
Case No. 77-27 (Attorney for Elizabeth Morgan)	
TAYLOR, Judith	1,670.96
Case No. 76-161	
TAYLOR, Judith	1,610.16
Case No. 76-162	
TENNANT, Walter M.	1,173.00
Case No. 77-104	
TERUYA, Dr. Kazuo	171.60
Case No. 77-94 (Medical Services)	
THE EMERGENCY GROUP	57.20
Case No. 77-79 (Medical Services)	
THE RADIOLOGY GROUP	153.52
Case No. 76-125 (Medical Services)	
THE RADIOLOGY GROUP	16.26
Case No. 76-270 (Medical Services)	
THOMAS, Kit A.	42.44
Case No. 76-248	
THRASHER, Sandra	400.00
Case No. 76-272	
TITCOMB, Frederick	150.00
Case No. 76-233 (Attorney for Frederick Jensen Jr.)	
TITCOMB, Frederick	75.00
Case No. 76-250 (Attorney for Mary Stockton)	
TOKUNAGA, Alice K.	1,410.00
Case No. 76-15	
TOKUNAGA, Alice K.	250.00
Case No. 76-16	
TOKUNAGA, Alice K.	3,457.77
Case No. 76-17	
TOM, Terrance	100.00
Case No. 76-270 (Attorney for Henritta Riggan)	
TUGAOEN, Tommy L.	310.63
Case No. 76-235	
VAN WEMMER, Betty	1,228.04
Case No. 76-234	
VOLKMAN, Henry L.	1,606.00
Case No. 77-94	

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VORRATH, Karen	1,000.00
Case No. 74-51	
WAIPA, Cynthia	9,745.00
Case No. 77-120	
WANG, Dr. Richard K. C.	50.06
Case No. 76-125 (Medical Services)	
WEINRICH, Sidney J.	710.97
Case No. 77-138	
WILKERSON, Suzanna	300.00
Case No. 76-211	
WILKINSON, Juliet M.	2,269.91
Case No. 76-259	
WILLIAMS, Fred A.	187.50
Case No. 74-80	
WOMEN'S COUNSELING CLINIC & RESOURCE CENTER	156.00
Case No. 76-37 (Medical Services)	
YAMASHITA, Eric	329.32
Case No. 77-163	
YOSHIOKA, Takayo	617.60
Case No. 77-1	
YOUNG, Gregg	35.00
Case No. 77-39 (Attorney for Roy Carvalho)	
YOUNGFELLOW, Michael	150.00
Case No. 76-84 (Attorney for Carla Freitas)	
ZAHA, Myron J.	10,000.00
Case No. 75-58	

SECTION 2. The sums appropriated in section 1 of this Act shall be deposited into the criminal injuries compensation fund to be applied to making payments as authorized by the criminal injuries compensation commission.

SECTION 3. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 29, 1979, shall lapse into the general fund of the State.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

## ACT 227

H.B. NO. 2893-78

A Bill for an Act Relating to Complaints.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 805-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 805-1 Complaint; form of warrant.** When a complaint is made to any prosecuting officer of the commission of any offense, he shall examine the complainant, shall reduce the substance of the complaint to writing, and cause the same to be subscribed by the complainant under oath, which he is hereby authorized to administer. If the original complaint results from the issuance of a traffic summons or a citation in lieu of an arrest pursuant to section 803-6, by a police officer, the oath may be administered by any police officer whose name has

been submitted to the prosecuting officer and who has been designated by the chief of police to administer the oath. Upon presentation of the written complaint to the judge within whose circuit the offense is alleged to have been committed the judge shall issue his warrant, reciting the complaint and requiring the sheriff, or other officer to whom it is directed (except as provided in section 805-3), forthwith to arrest the accused and bring him before the judge to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as are named therein to appear and give evidence at the trial. The warrant may be in the following form:

To any police officer of the . . . . . judicial circuit, island of . . . . ., State of Hawaii:

You are hereby commanded, on the information of . . . . . verified by oath, forthwith to arrest and take the body of . . . . . accused of . . . . . if he can be found, and forthwith have his body before me at the district courtroom of . . . . . at any time between the hours of . . . . . A.M. and . . . . . P.M. of the . . . . . day of . . . . . A.D. 19. . . . . (to answer to the said accusations, or to show cause why he should not be committed for trial at the circuit court of the . . . . . Judicial Circuit). And you are also commanded, having arrested the said . . . . . to summon as witnesses of accusation . . . . . if they can be found, and to make due return of your proceedings upon this writ.

Given under my hand this . . . . . day of . . . . ., A.D. 19. . . . .

Judge

District Court of the . . . . . Circuit."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

ACT 228

H.B. NO. 2894-78

A Bill for an Act Relating to Arrests.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 803-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 803-6 Arrest, how made. (a) At or before the time of making an arrest, the person shall declare that he is an officer of justice, if such is the case. If he has a warrant he should show it; or if he makes the arrest without warrant in any of the cases in which it is authorized by law, he should give the party ar-

\*Edited accordingly.

rested clearly to understand for what cause he undertakes to make the arrest, and shall require him to submit and be taken to the police station or judge. This done, the arrest is complete.

(b) In any case in which it is lawful for a police officer to arrest a person without a warrant for a misdemeanor, petty misdemeanor or violation, he may, but need not, issue a citation in lieu of the requirements of (a), if he finds and is reasonably satisfied that the person:

- (1) Is a resident of the State of Hawaii;
- (2) Will appear in court at the time designated;
- (3) Has no outstanding arrest warrants which would justify his detention or give indication that he might fail to appear in court, and
- (4) That the offense is of such nature that there will be no further police contact on or about the date in question, or in the immediate future.

(c) The citation shall contain:

- (1) Name and current address of offender;
- (2) Social security number;
- (3) Description of offender;
- (4) Nature of the offense;
- (5) Time and date;
- (6) Notice of time and date for court appearance;
- (7) Signature of officer (badge);
- (8) Signature of offender agreeing to court appearance;
- (9) Remarks; and
- (10) Notice—you are hereby directed to appear at the time and place designated above to stand trial for the offense indicated. A failure to obey this citation may result in a fine or imprisonment, or both.

(d) Where a citation has been issued in lieu of the requirements of (a) above, the officer who issues the summons or citation may subscribe to the complaint under oath administered by any police officer whose name has been submitted to the prosecuting officer and who has been designated by the chief of police to administer the oath.

[(d)] (e) If a person fails to appear in answer to the citation; or if there is reasonable cause to believe that he will not appear, a warrant for his arrest may be issued. Willful failure to appear in answer to the citation may be punished by a fine of not more than \$100 or imprisonment of not more than 30 days or both.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, is amended to read:

**"Sec. 213 Funds and accounts.** (a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

- (1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

- (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
- (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts", shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000, which maximum amount shall be increased to ~~\$7,500,000~~ \$5,000,000† from and after July 1, 1979.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of

†"\$5,000,000" substituted for "\$7,500,000" by the Governor with the following note: "Disapproved the increase in the standing appropriation of \$5,000,000 to \$7,500,000. GRA 6-5-78."

replacement homes; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances; shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.

- (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their residence lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian loan interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$10,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans not in excess of \$35,000 to lessees of agricultural tracts leased under section 207 of this Act.
- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian loan interest fund, except moneys received by the Hawaiian home administration account shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
  - (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
  - (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
  - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
  - (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and
  - (E) For appraisals, studies, consultants (architects, engineers), or any



other staff services including those in section 202(b) required to implement, develop, and operate these projects. The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000.

(b) There are established in the treasury of the State seven special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, and the Hawaiian home education fund.

- (1) Hawaiian home development fund. Moneys transferred to this fund shall be available with the prior written approval of the governor for off-site improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions, and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural, and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein; and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds, the administration account, or the operating fund.
- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act shall be deposited into this account. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:
  - (A) The department shall, when required by the governor but not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.
  - (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
  - (C) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing

to this account shall not be expended for any other purpose but shall remain available for future use. Any amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home development fund.

- (3) The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.
- (4) Hawaiian loan interest fund. All interest moneys from loans or investments received by the department from any fund except the borrowed money fund and the Hawaiian home loan fund shall be deposited in this fund. At the end of each quarter, all moneys in this fund shall be transferred to the Hawaiian home development fund, the Hawaiian home operating fund and any loan fund in accordance with rules adopted by the department.
- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund.
- (6) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act.
- (7) Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels."

SECTION 2. Section 214, Hawaiian Homes Commission Act, 1920, is amended to read:

**"Sec. 214 Purposes of loans; authorized actions.** (a) The department may make loans from revolving funds to any lessee to whom, or any cooperative association to which, a lease or license has been issued under section 207 of this Act. Such loans may be made for the following purposes:

- (1) The repair or maintenance or purchase or erection of dwellings on any tract, and the undertaking of other permanent improvements thereon;

- (2) The purchase of livestock, swine, poultry, fowl, and farm equipment;
  - (3) Otherwise assisting in the development of tracts and of farm and ranch operations;
  - (4) The cost of breaking up, planting and cultivating land and harvesting crops, the purchase of seeds, fertilizers, feeds, insecticides, medicines, and chemicals for disease and pest control for animals and crops, and related supplies required for farm and ranch operations, the erection of fences and other permanent improvements for farm or ranch purposes and the expense of marketing; and
  - (5) To assist lessees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by lessees of the department or by organizations formed and controlled by the lessees.
- (b) In addition the department may:
- (1) Use moneys in the development and operating funds, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
  - (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$35,000 to lessees in accordance with section 215;
  - (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;
  - (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
  - (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and para-

graph (3) of this section, shall at no time exceed \$18,000,000;

- (6) Use available loan fund moneys or other funds specifically available for such purposes as cash guarantees when required by lending agencies;
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting, of any loan, protecting of security interest, and after foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage."

SECTION 3. Section 216, Hawaiian Homes Commission Act, 1920, is amended to read:

**"Sec. 216 Insurance by borrowers; acceleration of loans; lien and enforcement thereof.** (a) The department may require the borrower to insure, in such amount as the department may prescribe, any livestock, swine, poultry, fowl, machinery, equipment, dwellings, and permanent improvements purchased or constructed out of any moneys loaned or assured by the department; or, in lieu thereof, the department may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan.

(b) Whenever the department has reason to believe that the borrower has violated any condition enumerated in paragraph (2), (4), (5), or (6) of section 215 of this Act, the department shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors to his interest, as the case demands. If upon such hearing the department finds that the borrower has violated the condition, the department may declare all principal and interest of the loan immediately due and payable notwithstanding any provision in the contract of loan to the contrary.

(c) The department shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, either on his tract or share in any collective contract or program, livestock, swine, poultry, fowl, machinery, and equipment purchased with moneys loaned by the department, and in any dwellings or other permanent improvements on any leasehold tract, to the amount of all principal and interest due and unpaid and of all taxes and insurance and improvements paid by the department, and any other indebtedness of the borrower, the payment of which has been assured by the department. Such lien shall have priority over any other obligation for which the property subject to the lien may be security.

(d) The department may, subject to this Act and procedures established by rule, enforce any lien by declaring the borrower's interest in the property subject to the lien to be forfeited, any lease held by the borrower cancelled, and shall thereupon order such leasehold premises vacated and the property subject to the lien surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such lease shall thereupon revert in the department, and the department may take possession of the premises covered

therein and the improvements and growing crops thereon; provided that the department shall pay to the borrower any difference which may be due him after the appraisal provided for in section 209 has been made.”

SECTION 4. Section 225, Hawaiian Homes Commission Act, 1920, is amended to read:

“**Sec. 225 Investment of funds; disposition.** (a) The department shall have the power and authority to invest and reinvest any of the moneys in any of its funds, not otherwise immediately needed for the purposes of the funds, in such bonds and securities as authorized by state law for the investment of state sinking fund moneys. Any interest or other earnings arising out of such investment shall be credited to and deposited in the Hawaiian home interest fund, except earnings derived from investments in the Hawaiian home administration account which shall revert to the same account.

- (b) (1) The department may receive, manage, and invest moneys or other property, real, personal or mixed, or any interest therein, which may be given, bequeathed, or devised, or in any manner received from sources other than the legislature or any federal appropriation, for the purposes of the Act.
- (2) All moneys received by or on behalf of the department shall be deposited into the state treasury to be expended according to law and for purposes in accordance with the terms and conditions of the gift. All moneys shall be appropriated for purposes enumerated in such gifts and if no specific purpose is enumerated, shall be appropriated to the Hawaiian home trust fund.
- (3) The department is authorized to sell, lease, or in any way manage such real, personal, or mixed property or any interest therein, in the manner and for the purposes enumerated in the gift. If no conditions are enumerated, the gift may be sold, leased, managed, or disposed of and the income or proceeds therefrom shall be deposited into the Hawaiian home trust fund.
- (4) The real property or any interest therein received by the department through contributions or grants shall not attain the status of Hawaiian home lands as defined in section 201(a) (5).
- (5) The department shall cause to be kept suitable books of account wherein shall be recorded each gift, the essential facts of the management thereof, and the expenditure of income.
- (6) Any action to be taken with respect to gifts shall be made in a public meeting where any pertinent information and reasons for any decisions shall be fully disclosed.”

SECTION 5. Section 208, Hawaiian Homes Commission Act, 1920, is amended to read:

“**Sec. 208 Conditions of leases.** Each lease made under the authority granted the department by section 207 of this Act, and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease:

- (1) The original lessee shall be a native Hawaiian, not less than twenty-one years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred, quitclaimed, or cancelled in accordance with the provisions of succeeding sections.
- (2) The lessee shall pay a rental of one dollar a year for the tract and the lease shall be for a term of ninety-nine years.
- (3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made.
- (4) The lessee shall thereafter, for at least such part of each year as the department shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf.
- (5) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, including loans from other agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.
- (6) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may in its discretion pay such taxes and have a lien therefor as provided by section 216 of this Act.
- (7) The lessee shall perform such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the lease; provided that an original lessee shall be exempt from all taxes for the first seven years from date of lease.

**SECTION 6.** The remaining balances of the Hawaiian home-commercial loan fund, the Anahola-Kekaha loan fund, the Keaukaha-Waiakea home-construction fund, and all moneys previously appropriated for construction of homes for specific locations and not allocated to a particular fund, excluding funds for home-replacement loans, shall be transferred to the Hawaiian home general loan fund created by section 1 of this Act.

**SECTION 7.** The remaining balances of the Papakolea home-replacement loan fund, the Keaukaha-Waiakea home-replacement loan fund, and the statewide replacement loan fund and all moneys previously appropriated for loans to lessees for construction of replacement homes in a specific location, shall be transferred to the Hawaiian home replacement loan fund created by section 1 of this Act.

SECTION 8. The remaining balance of the special account of the Additional Receipts—Development Fund Portion earmarked for education projects shall be transferred to the Hawaiian home education fund created by section 1 of this Act.

SECTION 9. Any balance remaining in currently operated revolving funds, the purposes of which are continued under differently named revolving funds created by this Act, shall be transferred to the successor funds as of the effective date of this Act. Balances of the Hawaiian home-loan fund shall continue in the same fund. Balances of the Hawaiian home-operating fund shall continue in the same fund. Balances of the Hawaiian home-repair loan fund shall continue in the same fund. Balances of the Hawaiian home general home loan fund shall continue in the same fund. Balances in the Additional Receipts loan fund shall continue in the same fund.

SECTION 10. Any balance remaining in currently operated, special funds, the purposes of which are continued under special funds created by this Act, shall be transferred or remain in the successor funds as of the effective date of this Act. Balances of the Hawaiian home-development fund, and the Additional Receipts—Development Fund less any amounts available for educational purposes, shall be transferred to the Hawaiian home development fund. Balances of the Hawaiian loan guarantee fund shall be continued in the fund of the name created by this Act.

SECTION 11. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause, or phrase of the legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 12. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 13. This Act shall take effect upon its approval.

Approved June 5, 1978, subject to the disapproval of the \$2,500,000 increase (from a maximum of \$5,000,000 to a maximum of \$7,500,000) in the "additional receipts" to be effective from and after July 1, 1979. See page 471.

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\*Edited accordingly.

A Bill for an Act Relating to Retirement for Sewer Workers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-74, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-74 Allowance on service retirement.** Upon retirement for service, a member shall receive a retirement allowance as follows:

- (1) If the member has attained the age of fifty-five, a retirement allowance of one-fiftieth of the average final compensation of the member multiplied by the total number of years of his credited service; provided, that after June 30, 1968, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a fireman or a policeman; and provided that after June 30 following the date of actual transfer of the county jails by executive order of the governor, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a corrections officer, then for each year of service as a fireman, a policeman or a corrections officer, the retirement allowance shall be two and one-half per cent of his average final compensation; provided further, that the maximum retirement allowance for such a member shall not exceed eighty per cent of his average final compensation. If the member has not attained the age of fifty-five, his retirement allowance shall be computed as though he had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary; provided that no such reduction shall be made if the member has at least twenty-five years of credited service of which the last five or more years prior to retirement is credited service as a fireman, policeman or corrections officer. No such reduction shall be made if the member has at least twenty-five years of credited service of which the last five or more years prior to retirement is credited service in any of the following classifications: (1) sewer maintenance helper, (2) sewer maintenance repairer, (3) sewer maintenance supervisor I and II, (4) gas detector, (5) gas detector helper, (6) gas detector supervisor, (7) cesspool worker, (8) cesspool pumping equipment operator I, (9) cesspool pumping equipment operator II, and (10) cesspool pumping supervisor, or in any combination of these classifications.
- (2) If the member has made voluntary additional contributions for the purchase of an additional annuity and has not applied for the refund thereof as permitted by section 88-72, he may accept such refund at time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in (1) hereof, an annuity which is the actuarial equivalent of such additional contributions with regular interest.
- (3) If the member has credited service as a judge, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, his



retirement allowance shall be computed on the following basis:

- (A) Irrespective of age, for each year of credited service as a judge, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, three and one-half per cent of his average final compensation in addition to an annuity which is the actuarial equivalent of his accumulated contributions allocable to the period of such service; and
- (B) For all other credited service as provided in subsections (1) and (2) hereof. No allowance shall exceed seventy-five per cent of the average final compensation.  
If the allowance exceeds this limit, it shall be adjusted by reducing the annuity, included in (A) of this subsection and the portion of the accumulated contributions specified in the same subsection as may be in excess of the requirements of the reduced annuity shall be returned to the member.

The allowance for judges under this section, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of average final compensation."

SECTION 3.† Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1978.)

## ACT 231

S.B. NO. 893

A Bill for an Act Relating to Pilotage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. It is declared to be the policy and intent of the legislature and the purpose of this Act, to provide for a system of state pilotage in order (1) to provide maximum efficiency in navigating vessels entering or leaving the waters of this State; (2) to maintain a state pilotage system devoted to the preservation and protection of lives, property, and vessels entering or leaving waters of the State; and (3) to insure an adequate supply of pilots well-qualified for the discharge of their duties in aid of commerce and navigation.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

### "CHAPTER — PILOTAGE

Sec. -1 Definitions. As used in this chapter:

†There is no section 2 in act as enacted.

- (1) "Board" means a board of pilot commissioners established pursuant to this chapter.
- (2) "License" means a pilot's license issued pursuant to this chapter.
- (3) "Pilot" means a state pilot licensed pursuant to this chapter as a port pilot or a deputy port pilot.
- (4) "Pilotage waters" means the waters of this State covered by this chapter.
- (5) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. Each tug and each of its tows shall be considered a separate vessel.

**Sec. -2 Board of pilot commissioners.** There is established within the department of regulatory agencies for administrative purposes a board of pilot commissioners consisting of five members who shall be appointed under section 26-34. Two of the members shall be port pilots licensed under this chapter, except those port pilots first appointed to the board need not be licensed but shall be persons who qualify for licensing under this chapter; two of the members shall represent commercial marine interests; and one of the members, who shall not be connected with the commercial marine industry or the port pilots or in public employment, shall represent the public. The members of the board shall serve without pay but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. Four members shall constitute a quorum for the transaction of all business.

**Sec. -3 Powers and duties of the board.** The board shall have powers and perform the duties hereinafter set forth and such other powers and duties as may be provided by law:

- (1) Adopt rules pursuant to chapter 91, not inconsistent with law, which shall be binding upon all pilots licensed by the board and upon all parties employing such pilots; and from time to time, revise or amend such rules as may be necessary to enable the board to carry into effect the provisions of this chapter. The rules shall include but shall not be limited to:
  - (A) Establishment of the qualifications of and examinations for any person applying for a pilot's license;
  - (B) Issuance, suspension, or revocation of any pilot's license and regulation of the number of pilots that may be licensed;
- (2) Hear and decide complaints made in writing against any pilot for any misbehavior or neglect or breach of rules, which it deems material to be investigated;
- (3) Administer oaths and compel the attendance of witnesses at such hearings as it may conduct;
- (4) Make an annual report to the governor for the preceding calendar year, including an account of the amounts paid to the State;
- (5) Do all things reasonable, necessary, and expedient to insure proper and safe pilotage and to facilitate the efficient administration of this chapter.

**Sec. -4 Prior service and initial licensing.** After June 30, 1978, and no later than six months thereafter, all pilots who are then actively engaged as pilots in the employment of the State under the civil service system shall be terminated from such employment, subject to sections 76-30 and 88-87, to the rules of the department of personnel services, and to collective bargaining agreements pertaining to voluntary termination of employment. At the time of termination of such employment, all pilots who have been for at least two years immediately prior thereto actively engaged as a pilot in the service of the State shall, upon application be issued a port pilot license without examination. All pilots who have less than two years of such service, as a regular or probationary employee, shall, upon application, be issued a deputy port pilot license. All other applicants for a license as port pilot or deputy port pilot shall be required to meet the qualifications and pass the examinations established by the board.

**Sec. -5 Limitation of Licenses.** (a) Between July 1, 1978 and December 31, 1978, the number of licenses issued shall be limited to a maximum of nine, whether port pilot licenses or deputy port pilot licenses. Thereafter, the board may set the number of licenses issued, provided that the number of licenses shall not be increased or decreased without a hearing in accordance with Section 91-3, Hawaii Revised Statutes.

(b) The board, in setting or adjusting the number of licenses, shall give primary consideration to the public interest in assuring that there is an adequate supply of qualified pilots to safely and economically meet the requirements of commerce.

**Sec. -6 Duration and renewal of license.** All licenses shall expire on June 30 of even-numbered years. All applicants for renewal of license shall submit a renewal application and comply with all applicable rules of the board. No applicant shall be denied a renewal of his license, except as provided in section

-8, as long as he possesses the qualifications established by the board and remains in active service as a pilot in the State.

**Sec. -7 Pilot examination and license fees.** An applicant for examination for a pilot's license shall pay a fee of \$25. Upon the issuance of an original port pilot license or a renewed port pilot license, the licensee shall pay a fee of \$200. Upon the issuance of an original deputy port pilot license or a renewed deputy port pilot license, the licensee shall pay a fee of \$50.

**Sec. -8 Denial, suspension, or revocation.** The board may deny the issuance of a license to any applicant, and may suspend or revoke the license of any pilot upon satisfactory proof that such applicant or pilot:

- (1) Has wilfully disobeyed this chapter or any rule adopted by the board;
- (2) Has negligently lost or damaged any vessel which he was piloting;
- (3) Is habitually intoxicated rendering him unfit to be entrusted with the charge of a vessel;
- (4) Is physically or mentally incapable of performing the duties of a pilot;
- or
- (5) Is no longer actively serving as a pilot in the State.

**Sec. -9 Exhibition of license.** A pilot, on boarding a vessel, and if re-

quired by the master thereof, shall exhibit his license or a photostatic copy thereof.

**Sec. -10 Piloting without a license.** It shall be unlawful for any person not licensed as a pilot under this chapter to pilot or to offer to pilot a vessel not exempt from this chapter. It shall be unlawful for any person on board a tug or towboat to tow a vessel or barge not exempt from this chapter, unless the vessel or barge shall have on board a pilot licensed under this chapter. Violation of this section shall be a misdemeanor.

**Sec. -11 Rates of Pilotage.** The board shall establish the rates of pilotage for vessels subject to this chapter as follows:

- (1) The rates of pilotage in effect upon passage of this bill shall remain in effect until changed by the board pursuant to this chapter.
- (2) No rate shall be increased, lowered or altered without a public hearing in accordance with chapter 91. Due notice of hearing shall be mailed at least thirty days prior to the date of hearing to the individual licensed pilots, the pilot's association, and all owners, charterers, operators, and agents of vessels who have registered with the board.
- (3) The board, in setting rates of pilotage, shall fix such amounts as will be a fair charge for the services rendered with due regard to necessary operating expenses, maintenance of, depreciation on, and return on investment for property used in the business of pilotage, and the rates and charges of pilotage at comparable ports of the United States.
- (4) Persons aggrieved by the board's decision setting the rates of pilotage may appeal to circuit court as provided in chapter 91.

**Sec. -12 Lawful compensation.** No pilot shall demand or receive any greater, lesser, or different compensation for piloting a vessel upon any of the pilotage waters of the State than is allowed by law.

**Sec. -13 Liability for pilotage fees.** The master, owner, charterer, agent, or consignee entering or clearing a vessel at any port in the State shall be jointly and severally liable for pilotage fees at the rate prescribed by the rules of the board.

**Sec. -14 Lien for pilotage fees.** Every licensed pilot shall have a lien for his pilotage fees upon the whole of any vessel liable to him therefor.

**Sec. -15 Pilot association.** The pilots licensed under this chapter, each of whom shall be deemed an individual contractor, may form a nonprofit association which shall not be deemed a partnership or corporation for liability purposes, in order to provide such arrangements and facilities as may be necessary and desirable for the efficient dispatching of vessels and rendering of pilotage services required under this chapter. The association shall have no control over the selection of persons to be licensed as pilots or their discharge. The association shall have no direction over the manner in which an individual pilot performs his duties. The association may adopt any working rules that are not inconsistent with the law or of the rules of the board. The association shall maintain liability insurance coverage which protects the State against liability arising out of or caused by any acts or omissions of an association pilot. The amount of

insurance coverage shall be specified by the commission.

**Sec. -16 Accounts of pilotage fees; payments to the board.** Once in every quarter, the pilot association shall render to the board an accurate account of all vessels subject to this chapter, piloted by its individual members and all moneys received by the pilots as fees for pilotage of such vessels. The board may impose on the pilots a charge not to exceed one-half per cent of such pilotage fees for the operation of the board.

**Sec. -17 Description of pilotage waters.** Pilotage waters as established under this chapter shall be the waters of the State described as follows:

- (1) Port Allen: All waters inside a line drawn from Puolu Point to Weli Point.
- (2) Nawiliwili: All waters inside a line drawn from Ninini Point to Kawaii Point.
- (3) Honolulu: All waters inside a line drawn from Diamond Head Light, 278° true, to the intersection of a line drawn from Ahua Point, 180° true.
- (4) Kahului: All waters inside a line drawn from Waiehu Point to Waihee Reef Lighted Buoy 2 in Latitude 20°55.9' North and Longitude 156°28.5' West and thence to Papaula Point.
- (5) Hilo: All waters inside a line drawn from the outer extremity of the Hilo Bay breakwater to Paukaa Point Light.
- (6) Kawaihae: All waters inside a line drawn from the outer extremity of the Kawaihae Harbor breakwater due West to Longitude 155°51' West, thence due North to Latitude 20°03' North and thence due East to where it intersects with the shoreline.

**Sec. -18 Vessels required to take a pilot.** Every vessel involved in trade or commerce, other than an exempt vessel, entering or departing from any port in or traversing the waters of the State designated as pilotage waters shall employ a pilot licensed under this chapter.

**Sec. -19 Exempt vessels.** This chapter does not apply to:

- (1) Any vessel licensed or enrolled under the laws of the United States of America, engaged in trade between ports of the United States of America;
- (2) Public vessels of the United States of America; or
- (3) Motorboats as defined in section 1 of the Federal Motorboat Act of 1940.

If any such exempt vessel employs a pilot, such pilot shall be entitled to receive, as compensation for his services, pilotage fees in the amount prescribed by the rules of the board.

This section provides minimum pilotage requirements, and is not intended to negate the department of transportation's responsibility for the safety of all ports and shore waters in the State, nor does it limit the department's right to require additional pilotage should that department determine it is necessary to ensure safety in the ports or shore waters of the State.

**Sec. -20 Hearings; appeal.** (a) Before any applicant may be denied a

license, and before any pilot shall have his license suspended or revoked by the board, the applicant or pilot shall be given a hearing pursuant to chapter 91.

(b) An applicant who has been denied a license, and a pilot whose license has been suspended or revoked may appeal the board's decision to a circuit court as provided in chapter 91."

SECTION 3. Section 266-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 266-2 Powers and duties of department.** The department of transportation shall have and exercise all the powers and shall perform all the duties which may lawfully be exercised by or under the State relative to the control and management of the shores, shore waters, navigable streams, harbors, harbor and waterfront improvements, ports, docks, wharves, quays, bulkheads, and landings belonging to or controlled by the State, and the shipping using the same, and shall have the authority to use and permit and regulate the use of the wharves, piers, bulkheads, quays, and landings belonging to or controlled by the State for receiving or discharging passengers and for loading and landing merchandise, with a right to collect wharfage and demurrage thereon or therefor, and subject to all applicable provisions of law, to fix and regulate from time to time rates for services rendered in mooring vessels, charges for the use of moorings belonging to or controlled by the State, rates or charges for [the services of pilots,] wharfage or demurrage, rents or charges for warehouses or warehouse space, for offices or office space, for storage of freight, goods, wares and merchandise, for storage space, for the use of donkey engines, derricks, or other equipment belonging to the State, under the control of the department, and to make other charges including toll or tonnage charges on freight passing over or across wharves, docks, quays, bulkheads, or landings. The department shall likewise have power to appoint and remove clerks, wharfingers, and their assistants, [pilots and] pilot boat crews, and all such other employees as may be necessary, and to fix their compensation; to make rules [and regulations] pursuant to [this] chapter 91 and not inconsistent with law; and generally shall have all powers necessary fully to carry out this chapter.

All moneys appropriated for harbor improvements, including new construction, reconstruction, repairs, salaries, and operating expenses, shall be expended under the supervision and control of the department, subject to this chapter and chapter 103.

All contracts and agreements authorized by law to be entered into by the department shall be executed on its behalf by the director of transportation.

The department shall prepare and submit annually to the governor a report of its official acts during the preceding fiscal year, together with its recommendations as to harbor improvements throughout the State."

SECTION 4. Section 266-3(a), Hawaii Revised Statutes, is amended to read:

"(a) The director of transportation may from time to time [make, alter, amend, and repeal such] adopt rules [and regulations] not inconsistent with law as he may deem necessary respecting the manner in which all vessels may enter and moor, anchor or dock in the shore waters, navigable streams, harbors, ports,

and roadsteads of the State, or move from one dock, wharf, bulkhead, quay, landing, anchorage, or mooring to another within the waters, streams, harbors, ports, or roadsteads; the examination, guidance, and control of [pilots and] harbor masters and their assistants, and their conduct while on duty; the embarking or disembarking of passengers; the expeditious and careful handling of freight, goods, wares, and merchandise of every kind which may be delivered for shipment or discharged on the wharves, docks, quays, bulkheads, or landings belonging to or controlled by the State; and defining the duties and powers of carriers, shippers, and consignees respecting passengers, freight, goods, wares, and merchandise in and upon the wharf, landing, dock, quay, or bulkhead. The director may also make further rules and regulations for the safety of the docks, wharves, landings, quays, bulkheads, and harbor and waterfront improvements belonging to or controlled by the State."

SECTION 5. Section 266-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 266-7 Department; duties.** The department of transportation shall collect all moneys, fees, and dues paid to the State for [pilotage,] wharfage, demurrage, harbor master fees, and all other fees or compensation in respect to the entry, anchorage, and wharfage of all boats, steamers, vessels, and other craft entering into the ports of the State, and shall account for the same to the State as hereinafter provided. The department shall keep a full and complete record of the official acts of the department and of the rules and regulations made by the department, and shall cause the rules and regulations to be printed and distributed without cost to the agents, masters, or owners of vessels, or other persons who request the same. The department shall certify the vouchers of all [pilots and] crews of pilot boats, harbor masters, assistants, and other persons appointed or employed by the department."

SECTION 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision of application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This Act shall take effect on July 1, 1978.

(Approved June 8, 1978.)

A Bill for an Act Relating to Gasoline Dealers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 486H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 486H Rights of Dealer Family Member.** (1) Upon the death of a

gasoline dealer, the franchise of said dealer and any leases or other agreements in connection therewith may be assumed by any dealer family member, who has actively participated in the franchise during the twelve (12) month period immediately preceding the dealer's death (but not necessarily continuously throughout such period), who meets the qualifications necessary to operate the station which would be customarily required by the petroleum distributor in question, and who gives written notice of his election to assume the franchise, and any leases or other agreements in connection therewith, to the petroleum distributor and any lessors of the premises within 30 days of the death of the gasoline dealer and affirms the same in writing within 15 days after such 30 day period.

(2) Any dealer family member who is entitled to give the notice under section (1) shall have the right to operate the franchise during the 45 day period provided for in Section (1) hereof.

(3) "Dealer family member" shall mean that person from the group consisting of the surviving spouse and surviving adult children of the dealer designated by the dealer in a written designation received by the petroleum distributor prior to his death, provided that in the absence of any written designation, the dealer family member shall be that one of the dealer's surviving spouse and his surviving adult children who is entitled to give and gives the notice provided for in (1) and who is chosen by said group. If said group does not choose the dealer family member within 45 days after the dealer's death, then the petroleum distributor shall have the option of choosing the dealer family member from among those who were entitled to give and give notice of their election to assume the franchise, any leases or other agreements in accordance with Section (1) hereof."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1978.)

ACT 233

S.B. NO. 2154-78

A Bill for an Act Relating to Cosmetology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 439-12, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of an examination fee of \$20 for each of the practices or occupations or any one or any combination of the practices or occupations, provided he is of good moral character and has an education equivalent to the completion of four years of high school and has either

\*Edited accordingly.



(A) Served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including two thousand hours for each of the two classified occupations; or (B) has acquired the equivalent training in a registered school, and has passed the prescribed examination or examinations to the satisfaction of the board; provided, that an applicant for the examination to practice the removal of superfluous hair by the use of electricity and commonly known and defined as the practice of electrolysis, shall have, in addition to the two thousand hours above required, additional training under the supervision of a registered operator or instructor of at least six hundred hours including such other studies as the board may prescribe; provided further, that the removal of superfluous hair by use of an electrical instrument or device which neither touches nor penetrates the skin shall not constitute the practice of electrolysis for purposes of this section; and provided further, that an applicant may be registered solely in the classified practice of a manicurist and such an applicant so registered may engage in such classified practice in a barber shop, a beauty shop, or in his own shop upon serving seven hundred hours of time as an apprentice under the supervision of a registered operator or instructor or three hundred fifty hours of training in a registered school and upon satisfying all the other requirements of this section; and provided further, <sup>2</sup>[than] that an applicant may be registered solely as a "Hair Cosmetician" in the classified occupation of a cosmetician upon serving one thousand two hundred hours of time as an apprentice under the supervision of a registered operator or instructor or six hundred hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination after paying the initial examination fee of \$20, shall thereafter pay an examination fee of \$10 for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a "Junior Operator" and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which such person has been examined so long as such person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a "Junior Operator" to take any prescribed examination or examinations shall be sufficient reason for the revocation of such registration by the board."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The visitor industry is the foundation of our economy. It is larger than military spending, sugar, and pineapple combined. There are 65,000 to 70,000 people directly or indirectly employed by the visitor industry. The industry is generally accepted as the greatest hope for providing new jobs.

If there is no growth in the visitor industry, it is estimated that unemployment would jump to 19 per cent before settling at around 13 per cent. It would take a 7 per cent growth rate to provide jobs needed by our population and to keep unemployment at less than 6 per cent. During the last 5 years, the industry has averaged 8.8 per cent with a high of 12.7 per cent and a low of 1.5 per cent growth.

However, future growth is not guaranteed. Tourism is a fragile industry. It can be shattered overnight and the pieces may not be put back together again. The industry is subject to economic changes, whims of the travel industry and travelers, appeals of competing visitor markets, degrees of visitor satisfaction, maintenance of the Aloha spirit, resident and employee attitudes, and the availability of energy.

It is therefore important that means are provided that will insure the maximum visitor satisfaction. The purpose of this Act is to achieve this desired result by adding a new chapter to the Hawaii Revised Statutes consisting of existing statutory provisions relating to the rights and liabilities of keepers of hotels and guests thereof and a new provision relating to hotel guests extending their stay beyond scheduled departures.

SECTION 2. Sections 507-6 to 507-12, Hawaii Revised Statutes, are repealed.

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **“CHAPTER HOTELS**

**Sec. -1 Definitions.** As used in this chapter, the following terms shall have the following meanings:

- (1) “Guest” means a person who is registered at the hotel and to whom a bedroom is assigned. The term “guest” shall include not only the guest, but the members of the guest’s family who accompany the guest.
- (2) “Hotel” applies to any and all buildings or structures used by the keeper thereof for the accommodation of guests therein.
- (3) “Keeper” includes any person, firm, or corporation actually operating a hotel.
- (4) “Valuables” includes money, bank notes, bonds, precious stones, jewelry, ornaments, watches, securities, transportation tickets, photographic cameras, checks, drafts, and other negotiable instruments, business papers, documents, and other papers, and other articles of value.

**Sec. -2 Hotelkeepers lien on baggage, etc., of guests; summary ejectment of delinquents.** All hotelkeepers shall have a lien on all baggage and other property in the possession of the hotel belonging to guests at the hotel, for the amount of their proper charges against guests for the hire of rooms or board or other services or accommodation in the hotel, and shall have the right, without the process of law, to retain the same until the amount of indebtedness is discharged. All parties indebted for rooms or board in the hotel may be summarily ejected by the keeper thereof from the premises upon the keeper giving to the parties so indebted a written notice of the amount of indebtedness and his demand for the same, unless the parties shall have entered into an agreement with the keeper for a mode and manner of payment for room or board other than that announced by notice in the hotel, the right of summary ejectment to be without prejudice to the lien on the guest's baggage or other property.

**Sec. -3 Sale of detained baggage; notice; disposition of proceeds.** All baggage and property so held by the keeper of the hotel shall, after the expiration of three months from the date of the detention, be sold at public auction, after notice thereof published three times in a newspaper of general circulation in the county where the hotel is kept. The proceeds thereof shall be applied to the payment of the amount due and the expenses of the notice and sale. The balance, if any remaining, shall be paid over to the owner of the property or his representative. If the balance is not claimed by the owner within sixty days after sale, then the balance shall be paid over to the director of finance of the State and shall be kept by him in a special deposit for payment to the owner and shall be disposed of as provided in chapter 523.

**Sec. -4 Safe for valuables; limitation of liability for deposited valuables.** Whenever the keeper of any hotel provides a safe or vault in the office thereof, for the safekeeping of any money, jewels, bank notes, precious stones, transportation tickets, negotiable or valuable papers, or ornaments belonging to the guests of the hotel, and posts a notice stating the fact that a safe or vault is provided in which valuables may be deposited, in the room or rooms occupied by the guests in a conspicuous position, if any guest neglects to deliver valuables to the person in charge of the safe, the keeper of the hotel shall not be liable in any sum for any loss of valuables sustained by the guest by theft or otherwise. If the guest delivers valuables to the person in charge of the office for deposit in the safe, the keeper shall not be liable for any loss thereof sustained by the guest, by theft or otherwise, in any sum exceeding \$500; provided that the keeper's liability is limited to \$500 only if he gives a receipt for the valuables on a form which states, in type large enough to be clearly noticeable, that the keeper is not liable for any loss exceeding \$500 except by special agreement in writing in which the keeper agrees to accept liability for losses in excess of \$500. The keeper may accept liability for losses in excess of \$500 by special agreement in writing between a guest and the keeper or his duly authorized representative.

**Sec. -5 Hotelkeeper's liability for personal property.** No keeper of any hotel shall be liable in any sum to any guest of the hotel for the loss of wearing apparel, goods, merchandise, or other personal property not mentioned in section -4, unless it appears that the loss occurred through the fault or negligence

of the keeper. Nor shall any keeper be liable in any event in any sum for the loss of any article or articles of wearing apparel, cane, umbrella, satchel, valise, bag, box, bundle, or other chattel belonging to any guest of, or in, any hotel, and not within a room or rooms assigned to him, unless the same is specially intrusted to the care and custody of the keeper or his duly authorized agent, and if so specially intrusted with any such article belonging to the guest, the keeper shall not be liable for the loss of the same in any sum exceeding \$500 except that his liability may be in excess of \$500 by special agreement in writing with the keeper or his duly authorized representative.

**Sec. -6 Hotelkeeper's responsibility in case of fire, etc.** The keeper of any hotel shall only be liable to any guest of the hotel, for ordinary and reasonable care in the custody of money, jewels, bank notes, precious stones, transportation tickets, negotiable or valuable papers, ornaments, baggage, wearing apparel, or other chattels or property belonging to any guest, whether specially intrusted to the keeper or his agent, or deposited in the safe of the hotel, for any loss occasioned by fire or by any other cause or force, over which the proprietor had no control.

**Sec. -7 Posting copy of law; damages recoverable by guests.** The keeper of every hotel shall post in a conspicuous place in the office or public room and in every bedroom of the hotel a printed copy of sections -1 to -8 and a statement of charge or rate of charges by the day for lodging. No charge or sum shall be collected or received by any keeper for any service not actually rendered, or for any item not actually delivered or contracted for, or for any greater or other sum than he is entitled to by the general rules and regulations of the hotel. For any intentional violation of this or any provision herein contained, the offender shall forfeit to the injured party three times the amount of the sum charged in excess of what he is entitled to.

**Sec. -8 Extension of stay provision.** Any guest who intentionally continues to occupy an assigned bedroom beyond the scheduled departure without the prior written approval of the keeper, shall be deemed a trespasser.

**Sec. -9 Valuation of property.** Whenever the value of property is to be determined under sections -4 and -5, the following shall apply:

- (1) Value means the market value of the property.
- (2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertained market value, shall be evaluated as follows:
  - (a) The value of an instrument constituting an evidence of debt, such as a check, traveler's check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;
  - (b) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by vir-

tue of the loss of the instrument.

- (3) When property has value but that value cannot be ascertained pursuant to the standards set forth above, the value shall be deemed to be an amount not exceeding \$50.

**Sec. -10 Registration required.** Every keeper covered by this chapter shall keep and maintain or cause to be maintained a register in which shall be inscribed the name of each and every guest renting or occupying a bedroom or apartment in such hotel. Such register shall be preserved for a period of not less than 6 months from the date of departure.

SECTION 4. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

ACT 235

S.B. NO. 2567-78

A Bill for an Act Relating to Employment Security.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-66, Hawaii Revised Statutes, is amended to read:

**"Sec. 383-66 Contribution rates, how determined.** The department of labor and industrial relations shall for the nine-month period April 1, 1941, to December 31, 1941 and for each calendar year thereafter, except as otherwise provided in this part, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts with a view to fixing such contribution rates as will reflect such experience. The department shall determine the contribution rate of each employer in accordance with the following requirements:

- (1) The standard rate of contributions payable by each employer shall be three per cent.
- (2) No employer's rate for the calendar year 1942 and for any calendar year thereafter, shall be other than the maximum rate unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate other than the maximum rate if his account has been chargeable throughout a lesser period but in no event less than the twelve con-

\*Edited accordingly.

secutive calendar month period ending on December 31 of the preceding calendar year.

- (3) No employer's rate for the calendar year 1965 and for any calendar year thereafter, or remaining calendar quarter thereof, as the case may be, through December 31, 1976 shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000; provided that each employer's rate for any year or any portion thereof, as determined by other applicable provisions of this part shall be increased by one-half per cent, if the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000 but less than \$20,000,000, but in no event shall an employer's rate exceed the standard rate. Any amount credited to this State under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration whether or not withdrawn from the trust fund shall be excluded from the fund for the purposes of this paragraph. Any advance that may be made to this State under section 1201 of the Social Security Act, whether or not withdrawn from this trust fund, shall be excluded from the fund for the purposes of this paragraph. No employer's rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the federal Unemployment Tax Act pursuant to section 3302(b) of the Federal Internal Revenue Code or pursuant to any other federal statute, successor to section 3302(b), which provides for the additional credit now provided for in section 3302(b).
- (4) If, when any such classification of employers is to be made (which may be after the commencement of the period for which the classification is to be made), the department finds that any employer has failed to file any report required in connection therewith or has filed a report which the department finds incorrect or insufficient, the department shall notify the employer thereof by registered mail addressed to his last known address. Unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of the notice, the maximum rate of contributions shall be payable by such employer for the period for which the contribution rate is to be fixed.
- (5) For the purpose of sections 383-63 to 383-69, if on or after January 1, 1940, any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all the assets thereof (whether or not the successor or acquiring unit was an "employing unit", as that term is defined in section 383-1(8) prior to the acquisition), of another which at the time of such acquisition was an employer subject to this chapter, and such predecessor employer has executed and filed with the department on a form approved by the department a waiver relinquishing all rights to his prior experience record with respect to his separate account, actual contribution payment, and benefit chargeability experience, annual payrolls and other data for the

purpose of obtaining a reduced rate, and requesting the department to permit such experience record to inure to the benefit of the successor employing unit upon request of the successor employing unit, the experience record for rate computation purposes of the predecessor shall thereupon be deemed the experience record of the successor and the experience record shall be transferred by the department to the successor employing unit and shall become the separate account of the employing unit as of the date of the acquisition and benefits thereafter chargeable to the employer on account of employment prior to the date of the acquisition shall be charged to such separate account. The successor employing unit, unless already an employer subject to this chapter, shall be subject from the date of acquisition to the rate of contribution of the predecessor or of two or more predecessors if they have the same contribution rate, provided the waiver or waivers required herein are filed with the department before sixty days after the date of acquisition. In case there are two or more predecessors having different contribution rates, the successor shall be subject to a contribution rate of three per cent until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessors and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which he is then subject shall remain the same until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessor and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. For the purpose of determination of rates under sections 383-63 to 383-69 of all successor employing units, waivers as required herein, if not previously filed as hereinabove provided, shall be filed with the department not later than March 1 of the year for which the rate is determined; provided, that no such waiver shall be accepted by the department for filing unless the employing unit executing the waiver has filed all reports and paid all contributions required of it by this chapter.

- (6) The department may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account. The regulations shall be consistent with the federal requirements for additional credit allowance in section 3303 of the federal Internal Revenue Code and consistent with this chapter.
- (7) Whenever there is an amendment to this chapter which, if immediately

effective, would change an employer's rate of contributions, the rate of the employer shall be changed in accordance with the amendment and the new rate shall apply for the remainder of the calendar year beginning with the calendar quarter immediately following the effective date of the amendment providing for such change unless otherwise provided by the amendment.

- (8) For the purposes of this section "contribution rate" shall mean the basic contribution rate as defined in section 383-68 when applied to calendar year 1978 or any calendar year thereafter."

SECTION 2. Section 383-68, Hawaii Revised Statutes, is amended to read:

**"Sec. 383-68 Contribution rate schedules; fund solvency rate schedule; rates based on experience.** (a) Before December 31 of each year through calendar year 1975 the contribution rate schedule applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund, in accordance with the provisions of this subsection and subsection (b) of this section. If the current reserve fund is less than the adequate reserve fund, contribution rate schedule I in subsection (b) of this section shall apply; if the current reserve fund equals or exceeds the adequate reserve fund but is less than 1.5 times the adequate reserve fund, contribution rate schedule II in subsection (b) of this section shall apply; and if the current reserve fund equals or exceeds 1.5 times the adequate reserve fund, contribution rate schedule III in subsection (b) of this section shall apply. If, however, the total assets of the fund available for the payment of benefits at the end of a calendar year or calendar quarter are \$15,000,000 or more but less than \$20,000,000, the applicable contribution rate schedule for the following calendar year or remaining calendar quarters in the calendar year, as the case may be, shall be contribution rate schedule I, and if the assets are less than \$15,000,000 at the end of a calendar year, or calendar quarter, this subsection and subsection (b) of this section shall not apply during the following calendar year or remaining calendar quarters in the calendar year, as the case may be.

(b) Subject to the requirements of sections 383-63 to 383-67 and 383-69, an employer's contribution rate for any calendar year through December 31, 1976 shall be that rate which appears on the same line as his reserve ratio for the year in the contribution rate schedule applicable for the year as specified in subsection (a) of this section.

#### CONTRIBUTION RATE SCHEDULE

Employer Reserve Ratio	Contribution Rate		
	Schedule I	Schedule II	Schedule III
.1000 or more	.8 per cent	.4 per cent	.2 per cent
.0950-.0999	1.0 per cent	.6 per cent	.4 per cent
.0900-.0949	1.2 per cent	.8 per cent	.6 per cent
.0850-.0899	1.4 per cent	1.0 per cent	.8 per cent
.0800-.0849	1.6 per cent	1.2 per cent	1.0 per cent
.0750-.0799	1.8 per cent	1.4 per cent	1.2 per cent



Employer Reserve Ratio	Contribution Rate		
	Schedule I	Schedule II	Schedule III
.0700-.0749	2.0 per cent	1.6 per cent	1.4 per cent
.0650-.0699	2.2 per cent	1.8 per cent	1.6 per cent
.0600-.0649	2.4 per cent	2.0 per cent	1.8 per cent
.0550-.0599	2.6 per cent	2.2 per cent	2.0 per cent
.0500-.0549	2.8 per cent	2.4 per cent	2.2 per cent
.0450-.0499	2.8 per cent	2.6 per cent	2.4 per cent
.0400-.0449	2.8 per cent	2.8 per cent	2.6 per cent
.0350-.0399	2.8 per cent	2.8 per cent	2.8 per cent
Less than .0350	3.0 per cent	3.0 per cent	3.0 per cent

(c) For calendar year 1979 and for each calendar year thereafter the contribution rate of any employer eligible for a reduced rate in accordance with the provisions of section 383-66(2) shall be the sum of his basic contribution rate for such year determined pursuant to paragraph (1) of this subsection and the fund solvency contribution rate determined for such year pursuant to paragraph (2) of this subsection; except that no employer's contribution rate shall be less than zero, no employer's contribution rate shall be greater than four and one-half (4.5) per cent and no employer with a negative reserve ratio shall have a contribution rate less than such employer's basic contribution rate.

- (1) Subject to the requirements of sections 383-63 through 383-67 and section 383-69, an employer's basic contribution rate for a calendar year shall be that rate which appears on the same line as his reserve ratio for the year in the basic contribution rate schedule set forth in this paragraph.

#### BASIC CONTRIBUTION RATE SCHEDULE

Reserve Ratio	Contribution Rate
.1500 and over	.2%
.1400-.1499	.4%
.1300-.1399	.6%
.1200-.1299	.8%
.1100-.1199	1.0%
.1000-.1099	1.2%
.0900-.0999	1.4%
.0800-.0899	1.6%
.0700-.0799	1.8%
.0600-.0699	2.2%
.0500-.0599	2.6%
0-.0499	3.0%
less than 0	4.5%

- (2) Before December 31 of each year the fund solvency contribution rate applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund. The fund solvency contribution rate for a calendar year shall be that rate which appears on the same

line as the ratio (rounded to the nearest hundredth) of the current reserve fund to the adequate reserve fund in the fund solvency contribution rate schedule set forth in this paragraph.

**FUND SOLVENCY CONTRIBUTION RATE SCHEDULE**

<b>Ratio of Current Reserve Fund to Adequate Reserve Fund</b>	<b>Fund Solvency Contribution Rate</b>
2.00 or more	— .5%
1.50 to 1.99	— .2%
1.00 to 1.49	0
.90 to .99	+ .4%
.80 to .89	+ .8%
.60 to .79	+1.2%
.40 to .59	+1.6%
.20 to .39	+2.0%
less than .20	+2.4%

SECTION 3. Section 383-63, Hawaii Revised Statutes, is amended by amending the definition of “adequate reserve fund” to read:

“(6) “Adequate reserve fund” means an amount which is equal to the amount derived by multiplying the benefit cost rate which is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year. “Remuneration”, as used in this paragraph, means wages as defined in section 383-10. For the purpose of determining the highest benefit cost rate, the benefit cost rate for the first twelve-consecutive-calendar-month period beginning with the first day of the first month of the ten-year period and for each succeeding twelve-consecutive-calendar-month period beginning with the first day of each subsequent month shall be computed.”

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

\*Edited accordingly.

SECTION 1. Section 3 of Act 102, SLH 1976 is amended to read as follows:

“SECTION 3. **Pilot project established; functions.** (a) There shall be a pilot project for three years within the department of planning and economic development to explore the feasibility of establishing a central clearing office for hotel room reservations in the State.

(b) The director of planning and economic development may require hotelkeepers in the State to furnish to the department a periodic report on the occupancy status of their respective hotels for a period of not more than sixty days and may request it on a continuing basis. The director shall provide the hotelkeeper written notice of a request for occupancy status seven days before the date on which the report is to commence. The director shall not require a report more than once in any seven-day calendar period.”

SECTION 2. Section 7 of Act 102, SLH 1976 is amended to read as follows:

“SECTION 7. The director of planning and economic development shall submit a report to the legislature twenty days before the beginning of the Regular Sessions of 1978 and 1979 on the progress and effectiveness of the pilot project established under this Act.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

ACT 237

H.B. NO. 1803-78

A Bill for an Act Relating to Unemployment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the rate of unemployment is expected to remain relatively high within the near future. It is further seen that extending the State Program for the Unemployed will alleviate the effects of this high rate of unemployment among Hawaii's residents.

Therefore, it is the purpose of this Act to extend the State Comprehensive Employment and Training component of the State Program for the Unemployed.

SECTION 2. Section 4 of Act 151, Session Laws of Hawaii 1975, as amended, is amended to read:

\*Edited accordingly.

"SECTION 4. This Act shall be in effect for the period July 1, 1975 to June 30, 1979. Appropriations made under Act 151, SLH 1975 and Act 134, SLH 1976 and not encumbered shall lapse on June 30, 1977. Appropriations made under Act 3, Special Session Laws of Hawaii 1977, and not encumbered shall lapse on June 30, 1979."

SECTION 3. Except for funds sufficient to continue the administrative staff through December 31, 1979, for purposes of program closeout, all appropriations made for the purpose of this Act not encumbered or expended on June 30, 1979 shall lapse into the general fund of the State.

SECTION 4. Section 10 of Act 3, Special Session Laws of Hawaii 1977, is repealed.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,000,000 or so much thereof as may be necessary, to implement Act 151, Session Laws of Hawaii 1975, as amended. The sum appropriated shall be expended by the director of labor and industrial relations for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by the Act as of the close of business on June 30, 1979 shall lapse into the general fund.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 7. This Act shall take effect on July 1, 1978.

(Approved June 17, 1978.)

A Bill for an Act Relating to the Lapsing of Capital Improvement Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that funds have been appropriated for capital improvement projects and other purposes but have not been expended due to changes in circumstances or the nonfeasibility of projects. The legislature further recognizes that the use of such funds are restricted to those projects for which they were appropriated. Thus, certain funds which were authorized in prior capital improvement acts and other acts should be released for the other state needs. The purpose of this Act is to lapse all unencumbered capital improvement appropriations and other appropriations deemed unnecessary and which have not otherwise been lapsed by law.

SECTION 2. Any law to the contrary notwithstanding, the balance of the appropriation in Item 1-D-63 of Act 195, Session Laws of Hawaii 1965, in the amount indicated is hereby lapsed:

\*Edited accordingly.

Item	Project Title	Lapsing Amount
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DEPARTMENT OF TRANSPORTATION

1-D-63	Kahuku to Honuapo, Hawaii Belt Road, Hawaii ... Plans and land acquisition for construction of approximately 17.9 miles of two-lane highway on new alignment from end of project BF-011-1(3) in Kahuku to end of project FAGH 18-D(1) in Honuapo.	23,200C
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SECTION 3. Any law to the contrary notwithstanding, the balance of the appropriation in Item 1-C-94 of Act 217, Session Laws of Hawaii 1967, in the amount indicated is hereby lapsed:

DEPARTMENT OF TRANSPORTATION

1-C-94	Kahului Airport... Maalaea Highway... Construction of a highway from Kahului Airport to Honoapiilani Highway near Maalaea.	22,000B
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SECTION 4. Any law to the contrary notwithstanding, the balance of the appropriation in Item 1-C-49 of Act 155, Session Laws of Hawaii 1969, in the amount indicated is hereby lapsed:

DEPARTMENT OF TRANSPORTATION

1-C-49	Kam Highway Improvement, Oahu... Plans and construction to widen Kam Highway to four lanes from Karsten Thot Bridge toward Weed Junction.	200,000C
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SECTION 5. Any law to the contrary notwithstanding, the balance of the appropriation in Item 1-C-50 of Act 187, Session Laws of Hawaii 1970, in the amount indicated is hereby lapsed:

DEPARTMENT OF TRANSPORTATION

1-C-50	Kahului Airport... Maalaea Highway, Maui... Construction of two-lane highway from Honoapiilani Highway near Maalaea to Hana Highway near Kahului.	250,000D
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SECTION 6. Any law to the contrary notwithstanding the balance of the following appropriations under Act 110, Session Laws of Hawaii 1970, in the amount indicated is hereby lapsed:

DEPARTMENT OF LAND AND NATURAL RESOURCES

1-2	Lahikina, Punchbowl area, Oahu... Plans for development of multifamily dwelling units.	100,000C
1-7	Wakiu, Hana, Houselots... Plans and construction for the incremental development of subdivision improvements including roads, water mains, electrical system, and other related facilities.	204,000C
1-11	Lihue-Kawaihau Houselots... Plans and construction of subdivision improvements, including roads, water mains, pump, storage tank and other related facilities.	300,000C

## ACT 238

SECTION 7. Any law to the contrary notwithstanding, the balance of the appropriation in Item 4-C-117 of Act 68, Session Laws of Hawaii 1971, in the amount indicated is hereby lapsed:

### UNIVERSITY OF HAWAII

4-C-117	Hilo College, Student Housing Facilities. Phase IV, Hilo, Hawaii . . . Plans.	344,000E
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SECTION 8. Any law to the contrary notwithstanding, the balance of the appropriation in Item 2-I-K-52 of Act 197, Session Laws of Hawaii 1971, in the amount indicated is hereby lapsed:

### DEPARTMENT OF TRANSPORTATION

2-I-K-52	Kaukanahoa Road . . . Installation of overhead street lights from Wilikina Drive to Thompson Corner. [To be matched by the City and County of Honolulu]	6,319C
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SECTION 9. Any law to the contrary notwithstanding, the balance of the following appropriations under Act 218, Session Laws of Hawaii 1974, in the amount indicated is hereby lapsed:

### DEPARTMENT OF HEALTH

72A-I-C-1	Kohala Hospital Purchase of ambulance.	40,000C
72A-II-F-6	Molokai Hospital, Molokai Purchase of ambulance for Molokai Hospital.	40,000C

### DEPARTMENT OF LAND AND NATURAL RESOURCES

72A-IV-A-6	Maunawili Sugarcane Experimental Project, Oahu . . . Acquisition of lands to be used as a sugarcane breeding site for the development of hybrid sugarcane, which would be resistant to insects and diseases. State to lease land and facilities to a research agency for the conduct of such experiments.	800,000C
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### DEPARTMENT OF TRANSPORTATION

72-C-52	Intra-Island Marine Mass Transit Plan, design and construct an Intra-Island system for express marine buses, together with terminals at Iroquois Point (Waipahu), Aloha Tower complex, Hawaii Kai and other locations.	250,000D
72-C-74	Kahakuloa Bridge and Approaches, Maui . . . Construction of Kahakuloa Bridge and approaches.	70,000D
72A-I-H-17	Hawaii Belt Road, Kahuku to Papa, Ka'u . . . Realignment and improvements existing Hawaii Belt Highway. Unexpended balances of Item III-C-2, Act 197, SLH 1971, may be used to supplement this appropriation. (To be expended by the Department of Transportation).	1,000C
72A-IV-B-5	Kahekili Highway Improvements, Kaneohe, Oahu . . . Plans and construction of stack lane at Haiku Road.	75,000C

UNIVERSITY OF HAWAII

72-G-128	University Services Center... University of Hawaii, Manoa Campus Modifications to second floor of Hemenway Hall to provide for a faculty-staff services center, including furniture and equipment.	500,000E
72-G-135	Faculty Housing Units, Phase I. Faculty Housing Units, Phase I University of Hawaii at Hilo, Hilo College... Construction of 32 faculty housing units at Hilo College to be shared by all activities under the Hilo chancellor's office. Approx. 15,000 gsf; 10,000 asf.	977,000E

CITY AND COUNTY OF HONOLULU

72A-IV-J-35	Kaneohe District Park... Plans and construction of four tennis courts.	21,000C
72A-IV-J-41	Makakilo Recreation Center... Planning and construction of a swimming pool. Unencumbered balances in Item K-24 of Act 197, SLH 1971, may be used for this project.	1,000C
72A-IV-J-73	Kamooalii Stream, Kaneohe... Drainage and channel improvements to Kamooalii Stream.	10,000C
72A-IV-J-77	Paukauila Stream... Preliminary engineering to prevent stream erosion from Alanuki Bridge to Kaiaka Bay.	25,000C
72A-IV-J-84	Kailua Sewage Treatment Plant Sludge Dewatering Facility... Construction of a sludge dewatering machine and its enclosure for compliance with federal and state water quality standards.	135,000C

SECTION 10. Any law to the contrary notwithstanding, the balance of the following appropriations under Act 195, Session Laws of Hawaii 1975, in the amount indicated is hereby lapsed:

DEPARTMENT OF HEALTH

91-III-H-1	Maui Memorial Hospital... Purchase of Mammographic Machine for breast cancer detection.	75,000C
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DEPARTMENT OF LAND AND NATURAL RESOURCES

91-IV-B-22-3	Kapiolani Park, Oahu... For comprehensive recreational use plan for area between Kuhio and San Souci, Waikiki, Oahu, per S.R. 364, S.D.I.	10,000C
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DEPARTMENT OF TRANSPORTATION

88-C-38	Second Entrance to Wahiawa Town, Oahu... Construction of a highway for a 2nd entrance to Wahiawa town.	176,000D
88-C-39	Likelike Hwy-Kahekili Hwy Interchange, Koolau-poko, Oahu. Construction of interchange to replace the existing at grade intersection.	2,900,000D
88-C-68	Kuihelani Hwy, Kahului Airport to Maalaea, Maui... Construction of two-lane highway from Hana Highway near Kahului to Honoapiilani Highway near Maalaea.	224,000D

## ACT 238

88-C-77	Vehicular Ferry System, Statewide... Planning & Construction for vehicular ferry system which would operate as a part of the statewide highway system. To be supplemented by unexpended funds from Act 218, SLH 1974, Item C81 for design & construction.	97,000D
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### UNIVERSITY OF HAWAII

88-G-97	Faculty Housing Units, Phase I University of Hawaii at Hilo, Hilo College... Construction of 32 faculty housing units at Hilo College to be shared by all activities under the Hilo chancellor's office. Approx. 15,000 GSF; 10,000 ASF.	565,000E
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### CITY AND COUNTY OF HONOLULU

91-IV-N-11-3	Wahiawa Recreation Center, Fred Wright Park, Wahiawa, Oahu... Provide pool heating and hot showers in dressing rooms. (Fund authorized under Act 187, SLH 1970, Item No. N-32, SLH 1970, may be used for this project; provided that any transfer of funds of this project may not be matched.)	7,982C
91-IV-N-11-6	Kaala Playground, Wahiawa, Oahu... Planning and construction for installation of flood lights for paved courts at Kaala Playground. (Grant-In-Aid)	8,588C
91-IV-N-12-2	Portable swimming pools, Kalihi Valley Playground, Oahu... Plans and construction and purchase of three portable pools and one special institutional pool to support a pilot project for a joint program between the State Department of Education and the Department of Parks and Recreation of the City and County of Honolulu to teach school children to swim. Notwithstanding Act 74, SLH 1972, the unencumbered balance in Item 1N-007 of Act 187, SLH 1970 for portable swimming pools, Kalihi Valley Playground Oahu... pilot program to teach school children to swim (8,583.12), will be used to supplement this appropriation.	1,000C
91-IV-N-14-2	Bernice P. Bishop Museum, Oahu... Continued operations for the Hawaii Foundation for History and the Humanities.	100,000C
91-IV-N-19-3	McCully Street and Kapiolani Boulevard Mini-Park, Oahu... Land acquisition, plans and construction for development of mini-park for all ages. (Unexpended balances in Item I-K-29 of Act 176, SLH 1972, may be used for this appropriation.)	100,000C
91-IV-N-20-6	Makiki Parking Structure, Oahu... Plans for a structure over the freeway within the area bounded by Pensacola Street and University Avenue.	25,000C
91-IV-N-22-2	22nd Avenue and Kilauea... Plan and construct traffic light synchronized with other Kilauea Avenue lights. City matching funds required.	25,000C



91-IV-N-24-5	Special Hill Climbing buses, Oahu . . . Purchase of buses to serve but not limited to the Waialae Niu Ridge area.	30,000C
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SECTION 11. Any law to the contrary notwithstanding, the balance of the following appropriations under Act 226, Session Laws of Hawaii 1976, in the amount indicated is hereby lapsed:

DEPARTMENT OF EDUCATION

91E-III-F-6	Kilohana School, Molokai . . . Plan and construct refuse storage area and other improvements.	5,000C
91E-III-F-7	Kilohana School, Molokai . . . Plans and construction for painting school building and other improvements.	10,000C
91E-III-F-10	Lanai High and Elementary School, Lanai . . . Plan and construct new custodial storage room, and other school improvements.	10,000C
91E-IV-F-57	Honowai Elementary School, Oahu . . . Plans and construction of playground bleachers.	35,000C

DEPARTMENT OF TRANSPORTATION

88A-C-43	Scenic Hwy . . . Lawai to Kalaheo . . . Kauai . . . Construction of approx. 3 miles of hwy from Spouting Horn towards Kukuiohono Park.	150,000D
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UNIVERSITY OF HAWAII

91F-I-E-4	Marine Research and Display Project, Hawaii . . . Feasibility study.	30,000C
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CITY AND COUNTY OF HONOLULU

91E-IV-N-77	Ewa bound bus stop, Oahu . . . Planning, site preparation and construction of a type C bus shelter in Pearl Ridge on the mauka side of Kamehameha Highway in front of Anna Miller's Coffee Shop parking lot.	10,000C
91F-III-N-2	Atherton YMCA, Oahu . . . Plans and construction for renovation.	26,650C
91F-III-N-28	Waialua Recreation Park, Oahu . . . Plans and construction for installation of outdoor lights.	100,000C

SECTION 12. Any law to the contrary notwithstanding, the following appropriations under Act 9, Special Session Laws of Hawaii 1977, in the amounts indicated are hereby lapsed:

DEPARTMENT OF EDUCATION

2-III-E-152	Mokulele Elementary School, Oahu . . . Plans and construction for renovation of former bank building to be used as campus facility.	25,000C
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CITY AND COUNTY OF HONOLULU

2-III-U-6	Foster Village Tennis Courts, Oahu . . . Grant-in-aid for design and construction of tennis courts on land adjacent to the East Foster Village Community Center.	50,000C
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## ACT 239

SECTION 13. Source of funding symbols as used in this Act correspond to the symbols used in Act 10, Special Session Laws of Hawaii 1977, and the symbols as used in the original designation of items listed in this Act have been accordingly revised.

SECTION 14. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

## ACT 239

H.B. NO. 2545-78

A Bill for an Act Relating to School Bus Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 296-46.1, Hawaii Revised Statutes, is amended as follows:

**"Sec. 296-46.1 School bus contracts.** Any law to the contrary notwithstanding, school bus contracts between the State and a private contractor may be extended for two years by mutual agreement; provided, that the parties may agree to extend the contract for an additional two years thereafter. The compensation due to the contractor by the State for each extended year may be increased, but in an amount not to exceed five per cent of the previous year's compensation. If the original contract between the State and a private contractor already includes an option to extend the contract period, this provision shall be applicable after the contract option is exercised.

The contract between the State and the contractor shall include a provision requiring the contractor to equip his vehicles with the signs and visual signals described in section 291C-95(d) and (g). The contract shall also include other provisions as may be deemed necessary by the State for the safety of school bus passengers."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

## ACT 240

H.B. NO. 2727-78

A Bill for an Act Relating to Employees Paid from Certain Federal Funds and Amending Chapter 88, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

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\*Edited accordingly.

**"Sec. 88- Employees paid from certain federal funds.** Any provision of law to the contrary notwithstanding, a participant in a work-experience, on-the-job training, or a temporary public service employment position whose salary is paid in whole or in part from federal funds provided under the Comprehensive Employment and Training Act of 1973 (Public Law 93-203; 87 Stat. 839), as amended, shall not be eligible for membership in the system from and after July 1, 1978, except as provided for in this section.

Any such participant who is a member of the system on June 30, 1978 shall remain a member of the system unless the participant elects in writing on a form prescribed by the board to terminate his or her membership. An election shall not be effective unless filed on or before December 31, 1978. Any participant who elects to terminate his membership in accordance with this section shall be paid all of his or her accumulated contributions."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

ACT 241

H.B. NO. 3049-78

A Bill for an Act Relating to the State Fire Marshal.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The Legislature finds that existing State laws and county ordinances have led to different and inconsistent fire protection standards imposed by the State Fire Marshal and the county governments, that existing State laws and county ordinances divide the accountability of the county fire chiefs by subjecting them to the supervision of both the State Fire Marshal and the mayors and county councils, and that the public would be better served if all responsibilities related to the establishment and enforcement of fire protection standards were focused at the county, rather than at the State and county level.

The purpose of this Act is to transfer the functions and responsibilities of the State Fire Marshal to the respective counties, to abolish the Office of the State Fire Marshal, and to place all functions relative to the protection of persons and property against fire loss with the respective county governments.

SECTION 2. Chapter 132, Hawaii Revised Statutes, is amended in the following respects:

(1) By amending section 132-1 to read:

**"Sec. 132-1 County fire chiefs; powers and duties.** (a) Records. The fire chief of each county shall keep in his office a record of all fires occurring in the

\*Edited accordingly.

county and of all facts concerning the same, and shall make such compilations and statistical investigations as he may deem proper, all of which shall be kept as permanent records in his office. All records shall be public, except that any evidence in any investigation may, in the discretion of the county fire chief, be withheld from the public.

(b) Investigations, generally. The fire chief of each county shall:

- (1) Investigate the cause, origin, and circumstances of fires;
- (2) Supervise and make or cause to be made periodically a thorough inspection of all property which might constitute a fire hazard within the county;
- (3) Summon and compel the attendance of witnesses and production of evidence and hold hearings and make orders in any matter under his jurisdiction;
- (4) Cooperate with any and all other governmental officers or agencies having jurisdiction in the matters."

(2) By amending section 132-2 to read:

**"Sec. 132-2 General power to make rules.** Subject to chapter 91, the fire chief of each county may adopt rules which shall not be inconsistent with the provisions of any ordinance relating to the protection of persons and property against fire. Such rules may relate to:

- (1) Prevention of fires, and the inspection of property, periodically or otherwise, or for the prevention of or reduction of loss by fire, or to promote the safety of persons in case of fire;
- (2) Manufacture, storage, sale, and use of combustibles and explosives;
- (3) Installation and maintenance of automatic, or other fire alarm systems, and fire extinguishing equipment;
- (4) Fire escape and other means of exits from or access to buildings or parts of buildings or other property in case of fire, including the exterior approaches to exits of places of assembly."

(3) By amending section 132-3 to read:

**"Sec. 132-3 Adoption of State model fire code.** The State fire council shall, after public hearings pursuant to chapter 91, adopt prior to July 1, 1979, a State model fire code setting forth minimum requirements relative to the protection of persons and property from fire loss including without limitation: (1) the storage, handling and use of hazardous substances, materials and devices; and (2) the control of conditions hazardous to life or property in the design, use or occupancy of buildings and premises. The State model fire code, insofar as is practicable, shall complement, augment and be consistent in form and language with the building and other codes of the respective counties. Upon adoption by the State fire council, the State model fire code shall be transmitted to the respective county councils which may, by ordinance, either enact its provisions or enact more stringent provisions relating to protection of persons and property against fire loss; provided that the county councils may enact less stringent provisions with the prior written approval of the State fire council. The State fire council shall meet annually to review and amend the State model fire code."

(4) By repealing Section 132-4.

(5) By renumbering and amending Section 132-5 to read:

**"Sec. 132-4 Investigation of fires; criminal prosecutions.** The fire chief of the county in which any fire occurs shall immediately investigate the cause, origin, and circumstances of fire by which property has been destroyed or damaged and so far as possible determine whether the fire was the result of carelessness or design.

If after any investigation the county fire chief is of the opinion that the evidence in relation to the fire indicates that a crime has been committed, he shall present the evidence to the prosecuting officer of the county in which the supposed offense was committed, with the request that he institute such criminal proceedings as the evidence may warrant."

(6) By renumbering and amending Section 132-6 to read:

**"Sec. 132-5 Right of entry for inspection; unlawful to obstruct.** The county fire chief may at all reasonable hours enter any buildings, structures, or premises within his jurisdiction, except the interior of private dwellings, to make any inspection, investigation, or examination which is authorized to be made under this chapter. The county fire chief may enter any private dwelling whenever he has reason to believe that dangerous conditions creating a fire hazard exist in the dwelling. The county fire chief or any member of any fire department may enter any private dwelling when a fire has occurred in the dwelling. It shall be unlawful to obstruct, hinder, or delay any person having the right to make the inspection, investigation, or examination in the performance of duty.

The county fire chief shall make an annual inspection of all State or county buildings and shall make a report to the authorities responsible for the maintenance of any building when it is found that a building does not meet minimum standards of fire and safety protection."

(7) By renumbering and amending Section 132-7 to read:

**"Sec. 132-6 Duties of county fire chiefs; periodic inspections; orders to remove fire hazards; appeals.** (a) Each county fire chief shall, in person or by officers or members of his fire department designated by him for that purpose, inspect all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violation of any law, ordinance, rule, or order relating to fire hazard or to the prevention of fires.

(b) The inspection shall be made at least once each year within the jurisdiction of the county fire chief, and not less than once in six months within the fire limits or the congested districts subject to conflagration, as the county council or other proper legislative body shall designate, and oftener as the county fire chief may determine.

(c) A written report of each inspection shall be kept on file in the office of the county fire chief.

(d) A copy of any report showing a change in the hazard or any violation of law, ordinance, rule or order relating to the fire hazard upon any risk, shall be

given by the county fire chief to any rating bureau making written request of him therefor.

(e) Each county fire chief is vested with the power and jurisdiction over, and shall have supervision of, every building and premises in the county as may be necessary to enforce any law, ordinances, rule, and order relating to protection from fire loss; provided that this provision shall not in any manner limit the jurisdiction or authority which any other county official may have over such building or premises under any other law or ordinance. Whenever as a result of inspection or upon complaint or otherwise the county fire chief determines that a law, ordinance, rule or order relating to protection from fire loss has been violated or that a condition exists which creates an unreasonable risk of fire loss, he shall prepare and serve upon the owner, occupant or other person responsible for the building or premises a written order setting forth the nature of the alleged violation or condition, the law, ordinance, rule or order violated, and the protections, safeguards, or other means or methods required to render the building or premises safe as required by law, ordinance, or rule. The order shall be complied with by the owner or occupant or person responsible for the building or premises within the time therein specified unless a timely appeal is taken pursuant to subsection (f) of this section.

(f) Owner's appeal to county fire appeals board. The owner or occupant may, within five days, appeal from any order made by the county fire chief to the county fire appeals board, which shall, within thirty days, and after a hearing pursuant to chapter 91, review the order and file its decision thereon, modifying, affirming, or revoking the order. Each county shall by ordinance establish a county fire appeals board and shall provide for its composition.

(g) Notwithstanding the provisions of subsection (e) of this section where the county fire chief determines that a clear and immediate risk of fire loss exists, he may after notice to the owner or occupant or other person responsible for the building or premises, and after a hearing pursuant to chapter 91, order such person to take all actions reasonably necessary to render the building or premises safe from fire loss; provided that no notice or hearing shall be required where the county fire chief determines that the risk of fire loss is sufficiently immediate that delay would be dangerous to the public safety and welfare. If any owner, occupant or other person responsible for the building or premises fails to comply with the order of the county fire chief, the county fire chief may take such action and make such expenditure as may be necessary and if the owner, occupant, or other person responsible neglects or refuses to pay to the county fire chief the expense incurred by him, the county shall have a prior lien on the real property as provided for in section 132-7."

(8) By renumbering and amending section 132-8 to read:

**"Sec. 132-7 Duty of owner to remove fire hazard; expense; lien.** If the owner or occupant, to whom the order is directed, fails to comply with the order, or with the order as modified on appeal, and within the time therein fixed, then the county fire chief may cause the buildings, structures, or premises to be repaired, torn down, demolished, materials removed, and all dangerous conditions remedied, as the case may be, at the expense of the owner or occupant.

and, if the owner or occupant within thirty days thereafter fails, neglects, or refuses to pay the county fire chief the expense incurred thereby by him, the county shall have a prior lien for the expense on the real estate on which the buildings or structures were located, or on the premises involved, by the filing of a notice of lien in the bureau of conveyances or with the assistant registrar of the land court, if the real estate or premises involved is registered in the land court.”

(9) By renumbering and amending section 132-9 to read:

**“Sec. 132-8 Duties of owners generally.** (a) Every owner or other person having charge of or control over any building, structure, or other premises, in this chapter designated “owner,” shall construct, keep, and make the building, structure, or other premises, in this chapter designated “building,” reasonably safe from loss of life or injury to persons or property by fire, in this chapter designated “fire loss,” in view of the type of construction, the use of the building, and all other pertinent circumstances.

(b) No owner shall permit the occupancy or use of any building which is not reasonably safe from fire loss and no owner shall fail to furnish, provide, and use reasonably adequate protection and safeguards against fire, or fail to adopt and use processes and methods reasonably adequate to render the building safe from fire loss; and no owner or other person shall fail or neglect to do every other thing reasonably necessary to prevent a fire loss in any building under his charge or control.”

(10) By renumbering and amending section 132-9.5 to read:

**“Sec. 132-8.5 Automatic elevators.** (a) Every owner, as defined in section 132-8, of a building in a county with more than five floors above or below ground, in which there is an elevator having automatic operation, shall provide that one or more elevators in such building shall be arranged for use by firemen as follows:

- (1) A key-operated switch with light jewel shall be provided adjacent to the elevator at the street floor landing and may be provided at other landings subject to the discretion of the county fire chief. The key-operated switch shall remove the elevator from normal service and place it on firemen’s service.
- (2) The key-operated switch shall, when operated, cancel existing car calls, prevent registration of further car calls, prevent the opening of the elevator doors except at the landing at which the switch is located, and cause the car to travel to that landing bypassing other landing calls. The light jewel shall be illuminated when the car is returning to the firemen’s landing in response to the operation of the key-operated switch.
- (3) When the car arrives at the firemen’s landing, the doors shall open and remain open until closed by the operation of the elevator from the car.
- (4) A key-operated switch shall be provided in the car which can be operated only by the key which operates the firemen’s landing switch and which, when operated, shall permit operation of the elevator only from the car-operating buttons and cause the elevator to bypass landing calls.

(b) In any case where a contract for the installation of an elevator in a building with more than five floors above or below ground, has been entered on

or after July 1, 1974, the elevator shall meet all requirements of the American National Standard Safety Code for Elevators, A17.1-1971, and supplements A17.1a-1972 and A17.1b-1973, as amended from time to time.

(c) The installation, operation, and maintenance of the safety feature prescribed in subsection (a) shall comply with Appendix E of the American National Standard Safety Code for Elevators A17.1-1971, as amended from time to time, and with rules promulgated in conformity with chapter 91 by each county fire chief.

(d) Each county fire chief shall, after consultation with the director of labor and industrial relations as administrator of the Hawaii Occupational Safety and Health Law under chapter 396, promulgate rules in conformity with chapter 91 necessary for the purposes of this section as it applies to all elevators contracted for, before July 1, 1974.

(e) Any person who violates this section shall be subject to the penalties provided in section 132-13."

(11) By renumbering and amending section 132-10 to read:

**"Sec. 132-9 Submission of building plans for approval.** Before work commences upon the construction of any building of the types hereinafter enumerated, or upon an alteration or addition to any building, the plans and specifications for the work shall be submitted to the county fire chief. Neither the person causing the construction, alteration, or addition to be made, nor his architect or agent, shall authorize, order, or permit the work thereon to start and no contractor, builder, or other person may start the work, before approval of the plans and specifications by the county fire chief.

The foregoing provisions shall be applicable to buildings, the whole or any part of which are being, or intended to be, used as:

- (1) Hospitals, sanitariums, asylums, children's nurseries, and other such institutions;
- (2) Hotels, apartment houses, rooming houses, and tenement houses; provided that, when any such building to be constructed or upon which alterations or additions are to be made, is only one story high, with living accommodations permanently designated and intended for less than twenty-five persons, this section shall not apply;
- (3) Schools, churches, auditoriums, halls, gymnasiums, dance halls, night clubs, factories, office buildings, stores, and all other such buildings where persons work, congregate, or assemble; provided that, when any such building to be constructed, or upon which alterations or additions are to be made, is only one story high, and is permanently designated and intended for a total accommodation at any one time of less than one hundred persons, this section shall not apply.

This section shall be applicable to the State and the counties, and other municipal subdivisions, and their officers, as well as to private persons."

(12) By repealing section 132-11.

(13) By renumbering and amending section 132-12 to read:

**"Sec. 132-10 Witnesses; fees.** The county fire appeals board or the county fire chief shall in all proceedings have the same powers respecting administering



oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the county fire appeals board or the county fire chief or of any subpoena issued by either of them or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit judge, on application by the county corporation counsel, shall compel obedience as in case of disobedience of all requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the appropriate county out of any appropriation or funds available for the expenses of the county fire chief."

(14) By renumbering and amending section 132-13 to read:

**"Sec. 132-11 Recorded order of county fire chiefs as evidence.** A duplicate original of every order made by each county fire chief shall be filed in his office and such duplicate original shall be admissible as evidence in any prosecution for the violation of any of its provisions. Unless an appeal has been instituted and is pending, the provisions of any order shall be presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety from fire loss."

(15) By renumbering and amending section 132-14 to read:

**"Sec. 132-12 Court aid; notices; rehearings; appeals; record.** Each county fire chief may invoke the aid of any court of competent jurisdiction to enforce any order or action made or taken by him in pursuance of law.

(16) By renumbering and amending section 132-15 to read:

**"Sec. 132-13 Penalty.** Any owner, occupant, or other persons having control over or charge of any building, structure, or other premises who violates any provision of this chapter or any law, ordinance, or rule relating to protection from fire loss or who fails or refuses to comply with any order of the county fire chief shall be fined not more than \$500 or imprisoned not more than thirty days, or both."

(17) By renumbering and amending section 132-16 to read:

**"Sec. 132-14 Educational powers of county fire chiefs.** The fire chiefs of each county may:

- (1) Appoint advisers, promote and secure the appointment and service of committees of commercial, industrial, labor, civic, and other organizations, who shall, without compensation, assist the county fire chief in establishing standards of safety;
- (2) Establish and maintain museums and exhibits of safety and fire prevention in which shall be exhibited equipment, safeguards, and other means and methods for protection against fire loss, and publish and distribute bulletins on any phase of this general subject;
- (3) Cause lectures to be delivered, illustrated by stereopticon or other views, diagrams, or pictures, for the information of owners or other persons and the general public, in regard to the causes and prevention of fires and related subjects."

(18) By renumbering and amending section 132-17 to read:

**"Sec. 132-15 Powers of director of labor and industrial relations.** Nothing contained in this chapter shall be construed to deprive the director of labor and industrial relations of any power or jurisdiction over or relative to the storage of explosives."

(19) By adding a new section to be appropriately designated and to read as follows:

**"Sec. 132- State fire council; composition; functions.** There is established a State fire council the members of which shall be ex officio the fire chiefs of the counties and the chief of the fire prevention bureau of the city and county of Honolulu. The State fire council shall appoint an advisory committee to assist it in carrying out its functions under this chapter. The advisory committee shall include the heads of the various county building departments, a licensed architect recommended by the Hawaii Society of the American Institute of Architects, a licensed electrical engineer and a licensed mechanical engineer recommended by the Consulting Engineers Council of Hawaii, a representative of the Hawaii Rating Bureau, a representative of the Hawaii firefighters association, and such other members of the public as the State fire council may determine can best assist it. The State fire council shall elect a chairman from among its members. In addition to adopting a State model fire code pursuant to section 132-3, the State fire council shall serve as a focal point through which all applications to the federal government for federal grant assistance for fire related projects shall be made. The State fire council may advise and assist the county fire departments where appropriate, may prescribe standard procedures and forms relating to inspections, investigations and reporting of fires, may approve plans for cooperation among the county fire departments, and may advise the governor and the legislature with respect to fire prevention and protection, life safety, and any other functions or activities for which the various county fire departments are generally responsible."

(20) By amending the chapter title to read:

## **"CHAPTER 132 FIRE PROTECTION"**

SECTION 3. Chapter 133, Hawaii Revised Statutes, is repealed.

SECTION 4. **Transfer of the State fire marshal program to the various counties.** The functions and activities of the State fire marshal are hereby transferred to the respective counties and the position and office of the State fire marshal are hereby abolished. Upon the effective date of this Act within its jurisdiction each county shall assume all of the powers, duties and obligations of the State fire marshal, whether such powers, duties or obligations are contained in or granted by any law, contract or other document. All references in any such law, contract or document to the State fire marshal shall apply to the respective county as if the latter were specifically named in such law, contract or document in place of the State fire marshal.

**SECTION 5. Transfer of records.** Upon the effective date of this Act, the State fire marshal shall transfer to the respective counties all records, files, contracts, papers, documents, books, and maps, and similar categorized material, theretofore, made, used, acquired or held by the State fire marshal.

**SECTION 6. Transfer of personnel.** All State officers and employees whose functions are transferred by this Act or whose office or position is abolished, shall not be separated from public employment, but shall remain in the employment of the State or of one of the respective counties and shall be assigned to any office or position for which such officer or employee is eligible under the personnel laws of the State or of the respective counties.

No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to chapters 76 and 77.

**SECTION 7. Rules and regulations of the State fire marshal; applicable until superseded by ordinance.** Those rules and regulations promulgated by the State fire marshal which set forth standards for the protection of persons or property from fire and which are in full force and effect immediately prior to the effective date of this Act shall thereafter continue in full force and effect within each of the counties, until such time as the county council adopts the State fire code pursuant to section 132-3. Such rules and regulations shall thereupon be superseded.

**SECTION 8.** Except as set forth in Section 3, statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 9.** This Act shall take effect on July 1, 1979; provided that paragraphs (3) and (19) of Section 2 of this Act shall take effect upon approval.

(Approved June 17, 1978.)

ACT 242

H.B. NO. 227

A Bill for an Act Relating to the Franchise Investment Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 482E-2, Hawaii Revised Statutes, is amended by repealing the definitions of "Advertisement" and "publish".

**SECTION 2.** Section 482E-2, Hawaii Revised Statutes, is amended by amending the definition of "Franchise" to read as follows:

"'Francise' means an oral or written contract or agreement, either expressed or implied, in which a person grants to another person, a license to use a

\*Edited accordingly.

trade name, service mark, trade mark, logotype or related characteristic in which there is a community interest in the business of offering, selling, or distributing goods or services at wholesale or retail, leasing, or otherwise, and in which the franchisee is required to pay, directly or indirectly, a franchise fee.

SECTION 3. Section 482E-2, Hawaii Revised Statutes, is amended by amending the definition of "sale or sell" to read as follows:

"Sale or sell" includes every contract of sale, contract to sell, or disposition of a franchise.

SECTION 4. Section 482E-3, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-3. Offering circular.** (a) It is unlawful for any person to sell a franchise in this State unless such person has presented to the prospective franchisee or his representative, at least seven days prior to the sale of the franchise, an offering circular containing the following information:

- (1) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.
- (2) The franchisor's principal business address and the name and address of his agent in the State authorized to receive process.
- (3) The business form of the franchisor whether corporate, partnership, or otherwise.
- (4) Such other information concerning the identity and business experience of persons affiliated with the franchisor including franchise brokers and selling agents as the director may by rule prescribe.
- (5) A statement whether any person identified in the offering circular, within ten years preceding the date of the offering circular:
  - (A) Has been found guilty of a felony or held liable in a civil action by final judgment if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or
  - (B) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any state denying registration to or revoking or suspending the registration of such person as a securities broker or dealer or investment advisor or is subject to any currently effective order or any national security association or national securities exchange (as defined in the Securities and Exchange Act of 1934) suspending or expelling such person from membership of such association or exchange; or
  - (C) Is subject to any currently effective order or ruling of the Federal Trade Commission or is subject to any currently effective order relating to the business activity as a result of an action brought by any public agency or department.

Such statement shall set forth the court, the date of conviction or judgment, any penalty imposed, or damages assessed, or the date, nature, and issue of such order.

- (6) A statement of when, where, and how long the franchisor has:
  - (A) Conducted a business of the type to be operated by the franchisees;
  - (B) Has granted franchises for such business; and
  - (C) Has granted franchises in other lines of business.
- (7) A recent financial statement of the franchisor, together with a statement of any material changes in the financial condition of the franchisor from the date thereof. The director may describe:
  - (A) Form and content of the financial statements required under this chapter;
  - (B) The circumstances under which consolidated financial statements can be filed; and
  - (C) The circumstances under which financial statements shall be audited by independent, certified public accountants.
- (8) A copy of the typical franchise contract or agreement proposed for use in this State.
- (9) A statement of the franchise fee charged, the proposed application of the proceeds of the fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.
- (10) A statement describing a payment of fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.
- (11) A statement of the conditions under which the franchise agreement may be terminated or renewed or renewal refused, or repurchased at the option of the franchisor.
- (12) A statement of the conditions under which the franchise may be sold, transferred, or assigned.
- (13) A statement of the conditions imposed by the franchisor whether by the terms of the franchise agreement or by other device or practice whereby the franchisee or subfranchisor is required to purchase services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business from the franchisor or his designee.
- (14) A statement of any restriction or condition imposed by the franchisor whether by the terms of the franchise agreement or by other device or practice whereby the franchisee is limited or required in the goods and services offered by him.
- (15) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his agent or affiliate.
- (16) A statement of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee in whole or in part.
- (17) A copy of any financial statement prepared for presentation to prospective franchisees or other persons together with a statement setting forth the basis for such statements.

- (18) A statement of the number of franchise businesses in each of the following categories which within the three-year period preceding the date of the offering circular have:
  - (A) Been canceled or terminated by either the franchisor or franchisee;
  - (B) Not been renewed by either the franchisor or franchisee;
  - (C) Been reacquired through purchase by the franchisor;
  - (D) Been otherwise reacquired by the franchisor; and
  - (E) Been transferred or sold by the franchisee to persons other than a corporation or other business entity controlled by the transferring or selling franchisee.
- (19) A statement describing the training program, supervision, and assistance the franchisor has and will provide the franchisee.
- (20) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.
- (21) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from
  - (A) the use of the public figure in the name or symbol of the franchise or
  - (B) the endorsement or recommendation of the franchise by the public figure in advertisements.
- (22) Such other information as the director may reasonably require.
- (23) Such other information as the franchisor may wish to present.
- (24) When the person selling the franchise is a subfranchisor, the offering circular shall also include the same information concerning the subfranchisor as is required from the franchisor pursuant to this subsection.
- (25) List of names and addresses of all franchisees of the franchisor whose franchise businesses are situated in this State.

(b) If any material change occurs in the information contained in the offering circular, the offering circular shall be amended by the franchisor or subfranchisor before further sales of the franchise are made in this State and the amended offering circular shall be presented to a prospective franchisee at least seven days before a sale of a franchise is made to the prospective franchisee. The director may define by rule material changes which require amendment of an offering circular.

(c) There shall be filed with the director a copy of the offering circular required under section 482E-3(a) or the amended offering circular required under section 482E-3(b) at least seven days prior to the sale of a franchise.

(d) In lieu of an offering circular meeting the requirements set forth in this section, franchises may be sold in this State by means of an offering circular or disclosure statement required by a federal or government agency of another state, or an offering circular or disclosure statement meeting the requirements approved by an association of state regulatory agencies; provided that the director determines that such offering circular or disclosure statement substantially meets the disclosure requirements set forth in this section.

SECTION 5. Section 482E-4, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-4 Exemptions.** (a) Sections 482E-3, 482E-5(a) and 482E-5(c) shall not apply to:

- (1) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.
- (2) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer or to a broker dealer where the purchaser is acting for itself or in some fiduciary capacity.
- (3) Any motor vehicle franchise subject to chapter 437.
- (4) The offer or sale is to a franchisee or prospective franchisee where the franchisee or prospective franchisee is not domiciled in this State and where the franchise business will not be operated in this State.
- (5) The extension or renewal of an existing franchise or the exchange or substitution of a modified or amended franchise agreement or the transfer of the location of a franchise where there is no interruption in the operation of the franchise business of the franchisee, and no material change in the franchise relationship.
- (6) The offer or sale of an additional franchise to an existing franchisee of the same franchisor.
- (7) The offer or sale of a franchise by a franchisee for his own account, or the issuance of a new franchise agreement pursuant to a sale by a franchisee for his own account, if the sale is an isolated sale and not part of a plan of distribution of franchises.

(b) The director may by rule or order exempt from sections 482E-3, 482E-5(a) and 482E-5(c) in whole or in part, any transaction or person, firm, corporation, or industry. In determining whether such exemption shall issue, the director shall consider whether information which would be required to be disclosed would be material in determining whether the prospective franchise has a reasonable chance of success and whether the exemption is in the public interest."

SECTION 6. Section 482E-5, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-5 General Provisions.** (a) Every person selling franchises in this State shall at all times keep and maintain a complete set of books, records and accounts of such sales and shall thereafter at such times as are required by the director make and file in the office of the director a report setting forth the franchises sold by it and the proceeds derived therefrom.

(b) It is unlawful for any person in connection with the offer, sale, or purchase of any franchise directly or indirectly:

- (1) To make any untrue statement of a material fact in any offering circular or report filed with the director under this chapter or wilfully to omit to state in any offering circular or report, any material fact which is required to be stated therein.

- (2) To sell or offer to sell a franchise in this State by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made in light of the circumstances under which they were made not misleading.
  - (3) To employ any device, scheme, or artifice to defraud.
  - (4) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.
  - (5) To violate any order of the director.
- (c) Any person who is engaged or hereafter engaged directly or indirectly in the sale of a franchise or in business dealings concerning a franchise, either in person or in any other form of communication, shall be subject to this chapter, shall be amenable to the jurisdiction of the courts of this State and shall be amenable to the service of process as provided by law and rule. Every person who sells a franchise in this State, other than a Hawaii corporation, shall file with the director in such form as he by rule prescribes, an irrevocable consent appointing the director or his successor in office to be his attorney, to receive service or any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor, administrator, or personal representative which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing consent. A person who has filed such a consent in connection with a previous sale under this law need not file another. Service may be made by leaving a copy of the process in the office of the director but it is not as effective unless:
- (1) The plaintiff, who may be the director, in a suit, action, or proceeding instituted by him forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the director; and
  - (2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further times as the court allows.
- (d) In any proceeding under this chapter, the burden of proving an exception or an exemption from a definition is upon the person claiming it."

SECTION 7. Section 482E-6, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-6 Relationship between franchisor or subfranchisor and franchisee.** Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and its franchisees:

- (1) The parties shall deal with each other in good faith.
- (2) For the purposes of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition for a franchisor or subfranchisor to:
  - (A) Restrict the right of the franchisees to join an association of franchisees.
  - (B) Require a franchisee to purchase or lease goods or services of the



franchisor or from designated sources of supply unless such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds. Suppliers suggested or approved by a franchisor as meeting its standards and requirements shall not be deemed designated sources of supply.

- (C) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that any classification of or discrimination between franchisees is:
  - (i) based on franchises granted at materially different times, and such discrimination is reasonably related to such differences in time;
  - (ii) is related to one or more programs for making franchises available to persons with insufficient capital, training, business experience, education or lacking other qualifications;
  - (iii) is related to local or regional experimentation with or variations in product or service lines or business formats or designs;
  - (iv) is related to efforts by one or more franchisees to cure deficiencies in the operation of franchise businesses or defaults in franchise agreements; or
  - (v) is based on other reasonable distinctions considering the purposes of this chapter and is not arbitrary.
- (D) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless the franchisor advises the franchisee in advance of the franchisor's intention to receive such benefit.
- (E) Establish a similar business or to grant a franchise for the establishment of a similar business at a location within a geographical area specifically designated as the exclusive territory in a franchise previously granted to another franchisee in a currently effective agreement, except under the circumstances or conditions prescribed in such agreement. The fact that other franchisees or the franchisor may solicit business or sell goods or services to people residing in such geographical territory shall not constitute the establishment of a similar business within the exclusive territory.
- (F) Require a franchisee at the time of entering into a franchise to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter. Any condition, stipulation or provision binding any person acquiring any franchise to waive compliance with any provision of this chapter or a rule promulgated hereunder shall be void. This paragraph shall not bar or affect the settlement of disputes, claims or civil suits arising or brought under this chapter.

- (G) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any unreasonable and arbitrary standard of conduct.
- (H) Terminate or refuse to renew a franchise except for good cause, or in accordance with the current terms and standards established by the franchisor then equally applicable to all franchisees, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary. For purposes of this paragraph, good cause in a termination case shall include, but not be limited to, the failure of the franchisee to comply with any lawful, material provision of the franchise agreement after having been given written notice thereof and an opportunity to cure the failure within a reasonable period of time.
- (I) Refuse to permit a transfer of ownership of a franchise, or of a proprietorship, partnership, corporation or other business entity that is a franchisee or subfranchisor, except for good cause. For purposes of this paragraph good cause shall include, but not be limited to:
  - (i) the failure of a proposed transferee to meet any of the franchisor's or subfranchisor's reasonable qualifications or standards then in effect for a franchisee or subfranchisor;
  - (ii) the fact that the proposed transferee or any affiliated person of the proposed transferee is a competitor of the franchisor or subfranchisor;
  - (iii) the inability or unwillingness of the proposed transferee to agree in writing to comply with and be bound by all lawful obligations imposed by the franchise, including without limitation all instruction and training obligations, and to sign the current form of franchise agreement used by the franchisor or subfranchisor; and
  - (iv) the failure of the franchisee or proposed transferee to pay any sums owing to the franchisor and to cure any default in the franchise agreement or other agreements with the franchisor existing at the time of the proposed transfer.

A franchisor or subfranchisor shall have thirty days after being notified in writing of a proposed transfer to approve or disapprove in writing a proposed transfer of ownership or control of a franchise, or of a proprietorship, partnership, corporation or other business entity that is a franchisee or subfranchisor, stating its reason for disapproval. If a franchisor or subfranchisor fails to approve or disapprove a proposed transfer in writing within such period, the franchisor or subfranchisor shall be deemed to have approved such transfer.

- (3) Upon termination or refusal to renew the franchise the franchisee shall

be compensated for the fair market value, at the time of the termination or expiration of the franchise, of the franchisee's inventory, supplies, equipment and furnishings purchased from the franchisor or a supplier designated by the franchisor; provided that personalized materials which have no value to the franchisor need not be compensated for. If the franchisor refuses to renew a franchise for the purpose of converting the franchisee's business to one owned and operated by the franchisor, the franchisor, in addition to the remedies provided in this paragraph, shall compensate the franchisee for the loss of goodwill. The franchisor may deduct from such compensation reasonable costs incurred in removing, transporting and disposing of the franchisee's inventory, supplies, equipment, and furnishings pursuant to this requirement, and may offset from such compensation any moneys due the franchisor.

- (4) The provisions of this chapter shall apply to all written or oral arrangements with the franchisee including but not limited to the franchise offering, the franchise agreement, sales of goods or services, leases and mortgages of real or personal property, promises to pay, security interest, pledges, insurance contracts, advertising contracts, construction or installation contracts, servicing contracts, and all other such arrangements in which the franchisor or subfranchisor has any direct or indirect interest.
- (5) In any proceedings damages may be based on reasonable approximations but not on speculation.

SECTION 8. Section 482E-7, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 482E-8, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-8 Duties of the director.** (a) The director may issue a stop order prohibiting the sale of a franchise if he finds that the order is in the public interest and that:

- (1) The offering circular is incomplete in any material respect or contains any statement which in the light of the circumstances under which it is or may be made false or misleading with respect to any material fact;
- (2) Any provision of this chapter or any rule or order or condition lawfully imposed under this chapter has been violated in connection with the sale of a franchise by the franchisor, any partner, officer or director of a franchisor, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling or controlled by the franchisor.
- (3) The offer or sale of the franchise is the subject of a permanent or temporary injunction of any court of competent jurisdiction or an administrative order prohibiting offer or sale of the franchise entered under any federal or state act applicable to the franchise, but the director may not enter an order under this subparagraph on the basis of an injunction entered under any other law unless that order or injunction is based on facts that currently constitute a ground for a stop order under

this section.

- (4) A franchisor's enterprise or method of business includes or would include activities which are illegal where performed;
- (5) The offer or sale of the franchise has worked or tended to work a fraud upon purchasers or would so operate;
- (6) The franchisor or subfranchisor has failed to demonstrate that adequate financial arrangements have been made to fulfill obligations to provide real estate improvements, equipment, training, or other items included in the offering; and the franchisor or subfranchisor is unable or unwilling to comply with an order of the director under subsection (e) of this section to escrow or impound franchise fees and other funds paid by the franchisee or subfranchisor, or to furnish a surety bond approved by the director;

(b) Upon the entry of a stop order under any part of subsection (a), the director shall promptly notify the franchisor or subfranchisor that the order has been entered and the reasons therefor and that within fifteen days after receipt of a written request, the matter will be set down for hearing. If no hearing is requested within fifteen days and none is ordered by the director, the director shall enter his written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director after notice of an opportunity for hearings to the franchisor or subfranchisor shall enter his written findings of fact and conclusions of law and may modify or vacate the order. The director may modify or vacate a stop order if he finds that the conditions which prompted his entry have changed or that it is otherwise in the public interest to do so.

(c) The director shall refer such evidence as may be available concerning violations of this chapter or any rule or order hereunder to the attorney general or the proper prosecuting attorney who may in his discretion with or without such a reference institute the appropriate criminal proceeding under this chapter.

(d) The director may, in accordance with chapter 91, from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out this chapter including rules and forms governing offering circulars and reports and defining any terms whether or not used in this chapter insofar as the definitions are consistent with this chapter.

(e) If the director finds that the applicant has failed to demonstrate that adequate financial arrangements have been made to fulfill obligations to provide real estate, improvements, equipment, inventory, training, or other items included in the franchise proposed to be sold, the director may require the escrow or impoundment of franchise fees and other funds paid by the franchisee or subfranchisor, until the obligations are fulfilled, or the furnishing of a surety bond approved by the director, if he finds that the requirement is necessary and appropriate to protect prospective franchisees or subfranchisors."

SECTION 10. Section 482E-9, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-9 Civil Liability.** (a) The commission of any unfair or deceptive acts or practices or unfair methods of competition prohibited by section

482E-6 shall constitute an unfair or deceptive act or practice under chapter 480.

(b) Any person who sells or offers to sell a franchise in violation of this chapter shall be liable to the franchisee or subfranchisor who may sue for damages caused thereby or for rescission or other relief as the court may deem appropriate. In the case of a violation of section 482E-5 (b) rescission is not available to the plaintiff if the defendant proves that the plaintiff knew the facts concerning the untruth or admission or that the defendant exercised reasonable care and did not know or if he had exercised reasonable care would not have known of the untruth or admission.

(c) The suit authorized under subsection (b) may be brought to recover the actual damages sustained by the plaintiff together with the cost of the suit including reasonable attorneys' fees and the court may in its discretion increase the award of damages to an amount not to exceed three times the actual damages sustained.

(d) Any person who becomes liable to make payments under this section may recover contributions as in cases of contracts from any persons who, if sued separately, would have been liable to make the same payment.

(e) A final judgment, order, or decree heretofore or hereafter rendered against a person in any civil, criminal, or administrative proceedings under the United States anti-trust laws, under the Federal Trade Commission Act, or this chapter shall be regarded as evidence against such persons in an action brought by any party against such person under subsections (a) and (b) as to all matters which said judgment or decree would be an estoppel between the parties thereto."

SECTION 11. Section 482E-10, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-10 Penalties.** (a) The attorney general may bring an action in the name of the State against any person to restrain and prevent the doing of any act herein prohibited or declared to be unlawful and the prevailing party may in the discretion of the court recover the costs of such action including a reasonable attorneys' fee.

(b) Every person who violates the terms of any injunction issued as provided by this chapter shall forfeit and pay a civil penalty of not more than \$25,000.

Every person who violates section 482E-3 (a) or 482E-5 (e) shall forfeit a civil penalty of not more than \$2,000 for each violation.

For the purpose of this section the court issuing an injunction shall retain jurisdiction and the cause shall be continued and in such cases the attorney general acting in the name of the State may petition for the recovery of civil penalties.

(c) Any person who wilfully violates any provision of this chapter or who wilfully violates any rule or order under this chapter shall be fined not more than \$5,000 or imprisoned not more than ten years, or both, but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order. No indictment or information may be returned under this chapter more than five years after the alleged violation.

(d) Nothing in this chapter limits the power of the State to punish any person for any conduct which constitutes a crime.

## ACT 243

SECTION 12. Section 482E-11, Hawaii Revised Statutes, is amended to read as follows:

**"Section 482E-11 Fees.** The director shall charge and collect a fee of \$50 at the time of the filing of the offering circular or the amended offering circular pursuant to section 482E-3 (c)."

SECTION 13. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 14. This Act shall take effect upon its approval.

(Approved June 17, 1978.)

## ACT 243

H.B. NO. 3039-78

A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1977 to June 30, 1979.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 1978.

SECTION 2. This Act amends Act 10, Special Session Laws of Hawaii 1977.

SECTION 3. The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in section 3, Act 10, Special Session Laws of Hawaii 1977, for the following programs, are amended to read:

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\*Edited accordingly.

APPROPRIATIONS						
Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
<b>A. ECONOMIC DEVELOPMENT</b>						
1.	COMMERCE AND INDUSTRY	PED 102				
	Research and Development		PED	348,876A 20.00*	60.000A 21.00*	408,876A
	Operating		PED	1,134,562A	1,924,977A	3,059,539A
			PED	84,800N	60.000N	144,800N
	Investment: Capital		PED	705,000W C	822,750W 2,475,000C	1,527,750W 2,475,000C
2.	TRANSPORTATION, COMMUNICATIONS AND UTILI	BUF 901				
	Operating		BUF	17.00* 436,344A	17.00* 491,842A	928,186A
<b>TRADE AND FINANCE</b>						
3.	Economic Assistance for Trade & Finance	PED 105				
	Operating		PED	6.00* 153,837A	6.00* 151,665A	305,502A
	Investment: Capital		PED	2,000C	C	2,000C
4.	SCS Development & Marketing for Trade	PED 107				
	Operating		PED	24.00* 587,963B	24.00* 666,817B	1,254,780B
5.	TOURISM	PED 113				
	Operating		PED	3.00* 2,193,904A	3.00* 2,158,700A	4,352,604A
			PED	700,000R	750,000R	1,450,000R
			PED	85,000X	105,000X	190,000X

				APPROPRIATIONS			
Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F	
AGRICULTURE							
Economic Assistance for Agriculture Loans for Agriculture							
6.	Department of Agriculture—Loans Operating	AGR 101	AGR	A 10.00* 285,927B 2,565,000W	230,000A 10.00* 314,248B 3,000,000W	230,000A  600,175B 5,565,000W	
7.	Department of Hawaiian Home Lands— Loans  Operating	HHL 101	HHL	4.00* 70,381B	4.00* 72,474B	142,855B	
8.	Price and Production Controls for Agr  Operating	AGR 103	AGR	8.00* 149,455A	8.00* 150,693A	300,148A	
9.	Productvty Imprvmnt & Mgt Asstnce for Agr Production & Mngmt Methods Imprvmnt for Farms & Ranches—Prodcn & Mgt Imprvmnt  Operating Investment: Capital	HHL 111	HHL HHL	20.00* 334,109B 3,700,000C	20.00* 344,072B 2,860,000C	678,181B 6,560,000C	
10.	Commercial Fishery  Operating	LNR 153	LNR LNR LNR	13.00* 272,840A 20,000B 100,000N	13.00* 319,515A 25,000B 100,000N	592,355A 45,000B 200,000N	



11.	Plant Pest and Disease Control Plant Quarantine	AGR 121		42.25*	40.25*	
	Operating		AGR	669,246A	660,059A	1,329,305A
			AGR	335,582U	400,157U	735,739U
	Investment: Capital		AGS	113,000C	82,000C	195,000C
12.	Plant Pest Control	AGR 122		25.75*	25.75*	
	Operating		AGR	596,486A	608,459A	1,204,945A
			AGR	6,000N	6,000N	12,000N
13.	Animal Pest and Disease Control Animal Quarantine	AGR 131		35.00*	35.00*	
	Operating		AGR	673,701A	688,140A	1,361,841A
	Investment: Capital		AGS	C	100,000C	100,000C
14.	Animal Disease Control	AGR 132		22.00*	22.00*	
	Operating		AGR	518,743A	512,395A	1,031,138A
			AGR	19,000T	20,000T	39,000T
	Investment: Capital		AGS	2,646,000C	C	2,646,000C
15.	Product Development and Marketing for Ag Forestry—Products Development	LNR 172		31.00*	31.00*	
	Operating		LNR	602,816A	607,331A	1,210,147A
			LNR	66,000N	66,000N	132,000N
16.	Distribution Systems Improvement for Agr	AGR 151		35.00*	35.00*	
	Operating		AGR	702,220A	685,115A	1,387,335A
			AGR	109,567B	120,810B	230,377B
			AGR	14,800N	14,800N	29,600N
			AGR	3,900X	3,900X	7,800X
17.	General Support for Agr Data Collection for Agr	AGR 189		12.00*	12.00*	
	Operating		AGR	219,355A	223,803A	443,158A

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Ag.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
18.	General Administration for Agr	AGR 192		31.00*	31.00*	
	Operating		AGR	560,393A	561,680A	1,122,073A
	Investment: Capital		AGS	156,000C	373,000C	529,000C
19.	WATER DEVELOPMENT & IRRIGATION SERVICES	LNR 141		18.00*	18.00*	
	Operating		LNR	738,267A	482,108A	1,220,375A
			LNR	105,800B	134,434B	240,234B
	Investment: Capital		LNR	5,660,000C	4,570,000C	10,230,000C
	ECON PLANNING & COORD FOR ECON DEVELOPME					
20.	Econ Planning & Research for Econ Develo Research and Development	PED 130		25,000A	25,000A	50,000A
			PED	13.00*	13.00*	
	Operating		PED	297,933A	347,598A	645,531A
21.	Office of the Gov—Gnrl Sppt for Econ D	GOV 109		3.00*	2.00*	
	Operating		GOV	573,653A	625,950A	1,199,603A
	Investment: Capital		GOV	C	2,525,000C	2,525,000C
22.	PED—General Support for Econ Developme	PED 142		21.00*	21.00*	
	Operating		PED	558,144A	548,613A	1,106,757A
			PED	33,096N	33,912N	67,008N
	B. EMPLOYMENT					
	FULL OPPORTUNITY TO WORK					
I.	Placement Services	LBR 111		3.00*	3.00*	
	Operating		LBR	49,117A	50,715A	99,832A
				202.00*	202.00*	
			LBR	5,831,517N	6,052,307N	11,883,824N

2.	Apprenticeship & Other Training Programs	LBR 123				
	Operating		LBR	7.00* 109,901A	7.00* 111,300A	221,201A
3.	OCCUPATIONAL SAFETY & HEALTH	LBR 143				
	Operating		LBR	46.00* 886,328A	46.00* 900,441A	1,786,769A
			LBR	27.00* 615,826N	27.00* 624,900N	1,240,726N
4.	FAIR AND JUST EMPLOYMENT PRACTICES Wage Standards & Fair Employment Practic	LBR 152				
	Operating		LBR	26.00* 451,075A	26.00* 458,687A	909,762A
5.	Labor-Management Relations Public Employment	LBR 161				
	Operating		LBR	3.00* 363,266A	3.00* 361,491A	724,757A
6.	Private Employment	LBR 162				
	Operating		LBR	1.50* 42,677A	1.50* 41,577A	84,254A
7.	ASSISTANCE IN WORK RELATED DIFFICULTIES Unemployment Compensation	LBR 171				
	Operating		LBR	81,400,000B 283.00*	74,500,000B 283.00*	155,900,000B
			LBR	5,186,551N	5,366,868N	10,553,419N
8.	Disability Compensation	LBR 183				
	Operating		LBR	76.00* 1,193,815A	79.00* 1,260,431A	2,454,246A
			LBR	1,912,000B	2,012,000B	3,924,000B

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
9.	Vocational Rehabilitation	SOC 802		24.40*	33.40*	
	Operating		SOC	914,408A	1,104,613A	2,019,021A
			SOC	77,000B	B	77,000B
				90.60*	90.60*	
			SOC	2,637,576N	2,766,155N	5,403,731N
			SOC	W	77,000W	77,000W
OVERALL PROGRAM SUPPORT						
10.	DLIR—Data Gathering, Research and Analys	LBR 901		8.40*	8.40*	
	Operating		LBR	132,277A	136,005A	268,282A
				30.60*	30.60*	
			LBR	722,125N	748,431N	1,470,556N
11.	Policy Development and Coordination	GOV 803		11.00*	11.00*	
	Operating		GOV	284,672A	286,992A	571,664A
			GOV	50,000N	50,000N	100,000N
12.	General Administration	LBR 902		20.70*	20.70*	
	Operating		LBR	365,083A	368,564A	733,647A
				52.80*	52.80*	
			LBR	5,417,673N	5,709,063N	11,126,736N
13.	Labor & Industrial Relations Appeals Boa	LBR 812		8.00*	8.00*	
	Operating		LBR	236,947A	236,501A	473,448A

**C. TRANSPORTATION FACILITIES**  
**AIR TRANSPORTATION FACILITIES**  
**AND SVCS**

1.	HIA Facilities & Svcs	TRN 102		424.00*	426.00*	
	Operating		TRN	12,380,889B	12,437,637B	24,818,526B
	Investment: Capital		TRN	9,154,000B	4,790,000B	13,944,000B
			TRN	10,701,000E	E	10,701,000E
			TRN	4,628,000N	3,554,000N	8,182,000N
2.	General Lyman Field Facilities and Svcs	TRN 111		77.00*	77.00*	
	Operating		TRN	2,496,874B	2,711,725B	5,208,599B
	Investment: Capital		TRN	75,000D	D	75,000D
			TRN	E	300,000E	300,000E
3.	Ke-ahole Airport Facilities and Services	TRN 114		48.00*	49.00*	
	Operating		TRN	1,164,326B	1,210,461B	2,374,787B
	Investment: Capital		TRN	484,000D	D	484,000D
			TRN	490,000N	N	490,000N
4.	Waimea-Kohala Airport Facilities and Svc	TRN 116		4.00*	4.00*	
	Operating		TRN	90,069B	122,625B	212,694B
5.	Upolu Airport Facilities and Services	TRN 118				
	Operating		TRN	2,000B	2,250B	4,250B
6.	Kahului Airport Facilities and Services	TRN 131		69.00*	69.00*	
	Operating		TRN	1,747,934B	1,530,161B	3,278,095B
	Investment: Capital		TRN	2,500,000E	1,200,000E	3,700,000E
7.	Hana Airport Facilities and Services	TRN 133		1.00*	1.00*	
	Operating		TRN	36,238B	30,137B	66,375B
8.	Molokai Airport Facilities and Services	TRN 141		8.00*	8.00*	
	Operating		TRN	378,470B	365,803B	744,273B

				APPROPRIATIONS					
Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
9.	Lanai Airport Facilities and Services	TRN 151		4.00*		4.00*			
	Operating		TRN	115,058B		108,596B		223,654B	
10.	Lihue Airport Facilities and Services	TRN 161		55.00*		57.00*			
	Operating		TRN	1,420,125B		1,514,956B		2,935,081B	
	Investment: Capital		TRN	B		4,809,000B		4,809,000B	
			TRN	E		3,051,000E		3,051,000E	
11.	Dillingham Field Facilities and Services	TRN 172		1.00*		1.00*			
	Operating		TRN	48,012B		50,947B		98,959B	
12.	Ala Wai Heliport Facilities and Services	TRN 173							
	Operating		TRN	500B		500B		1,000B	
13.	Kalaupapa Airport Facilities and Service	TRN 181		1.00*		1.00*			
	Operating		TRN	47,978B		18,048B		66,026B	
	Investment: Capital		TRN	30,000D		D		30,000D	
			TRN	80,000N		N		80,000N	
14.	Port Allen Airport Facilities and Servie	TRN 191							
	Operating		TRN	20,845B		10,900B		31,745B	
15.	Air Transportation Facilities & Svcs Sup	TRN 195		51.00*		51.00*			
	Operating		TRN	32,329,446B		37,845,743B		70,175,189B	

WATER TRANSPORTATION FACILITIES  
AND SERV

16.	Honolulu Harbor Facilities and Services	TRN 301		138.00*	139.00*	
	Operating		TRN	4,123,746B	4,120,979B	8,244,725B
	Investment: Capital		TRN	355,000B	885,000B	1,240,000B
			TRN	10,100,000D	4,430,000D	14,530,000D
17.	Hilo Harbor Facilities and Services	TRN 311		12.00*	12.00*	
	Operating		TRN	422,348B	419,379B	841,727B
	Investment: Capital		TRN	75,000B	B	75,000B
18.	Kawaihae Harbor Facilities and Services	TRN 313		5.00*	5.00*	
	Operating		TRN	138,639B	128,239B	266,878B
	Investment: Capital		TRN	B	150,000B	150,000B
19.	Kahului Harbor Facilities and Services	TRN 331		14.00*	14.00*	
	Operating		TRN	517,974B	491,366B	1,009,340B
	Investment: Capital		TRN	200,000B	B	200,000B
			TRN	1,464,000D	550,000D	2,014,000D
20.	Kaunakakai Harbor Facilities and Service	TRN 341		1.00*	1.00*	
	Operating		TRN	47,503B	36,516B	84,019B
21.	Nawiliwili Harbor Facilities and Service	TRN 361		11.00*	11.00*	
	Operating		TRN	316,504B	313,257B	629,761B
	Investment: Capital		TRN	110,000B	75,000B	185,000B
22.	Port Allen Harbor Facilities and Service	TRN 363		1.00*	1.00*	
	Operating		TRN	55,763B	43,973B	99,736B
23.	Kewalo Basin Facilities and Services	TRN 371		1.00*	2.00*	
	Operating		TRN	212,506B	231,056B	443,562B

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal		Fiscal		Total	
				Year	M O F	Year	M O F	Biennium	M O F
				1977-78		1978-79		1977-79	
24.	Water Transportation Fac & Svcs Support	TRN 395		41.00*		41.00*			
	Operating		TRN	7,104,531B		8,142,747B		15,247,278B	
	Investment: Capital		TRN	25,000B		25,000B		50,000B	
	LAND TRANSPORTATION FACILITIES AND SERVI								
25.	Oahu Highways and Services	TRN 501		204.00*		204.00*			
	Operating		TRN	6,639,272B		7,087,183B		13,726,455B	
	Investment: Capital		TRN	5,973,000D		8,160,000D		14,133,000D	
			TRN	44,592,000J		35,809,000J		80,401,000J	
			TRN	K		5,210,000K		5,210,000K	
			TRN	400,000N		400,000N		800,000N	
			TRN	S		260,000S		260,000S	
26.	Hawaii Highways and Services	TRN 511		99.00*		99.00*			
	Operating		TRN	2,544,751B		2,844,112B		5,388,863B	
	Investment: Capital		TRN	1,206,000D		1,009,000D		2,215,000D	
			TRN	L		227,000L		227,000L	
27.	Maui Highways and Services	TRN 531		50.00*		50.00*			
	Operating		TRN	1,405,547B		1,469,935B		2,875,482B	
	Investment: Capital		TRN	2,144,000D		1,503,000D		3,647,000D	
			TRN	2,325,000K		K		2,325,000K	
28.	Molokai Highways and Services	TRN 541		11.00*		11.00*			
	Operating		TRN	455,167B		417,110B		872,277B	
	Investment: Capital		TRN	75,000D		365,000D		440,000D	
			TRN	L		600,000L		600,000L	



29.	Lanai Highways and Services	TRN 551		3.00*	3.00*	
	Operating		TRN	97,956B	93,784B	191,740B
	Investment: Capital		TRN	D	60,000D	60,000D
30.	Kauai Highways and Services	TRN 561		41.00*	41.00*	
	Operating		TRN	1,279,173B	1,301,814B	2,580,987B
	Investment: Capital		TRN	1,007,000D	4,110,000D	5,117,000D
			TRN	K	1,885,000K	1,885,000K
31.	Land Transportation Fac & Svcs Support	TRN 595		42.00*	42.00*	
	Operating		TRN	16,094,404B	17,598,707B	33,693,111B
				4.00*	4.00*	
			TRN	105,726N	102,819N	208,545N
	Investment: Capital		TRN	1,633,000D	1,702,000D	3,335,000D
			TRN	2,025,000N	1,975,000N	4,000,000N
32.	OVERALL PROGRAM SUPPORT FOR TRANS FAC &	TRN 995		65.00*	65.00*	
	Operating		TRN	2,099,372B	2,124,800B	4,224,172B
<b>D. ENVIRONMENTAL PROTECTION</b>						
<b>POLLUTION CONTROL</b>						
1.	Solids, Liquids, Gases, and Noise	HTH 840		43.50*	43.50*	
	Operating		HTH	679,252A	686,140A	1,365,392A
				10.00*	10.00*	
	Investment: Capital		HTH	277,311N	288,623N	565,934N
			HTH	6,000,000C	C	6,000,000C
2.	Pesticides	AGR 846		8.00*	8.00*	
	Operating		AGR	108,442A	114,379A	222,821A

				APPROPRIATIONS			
Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F	
PRESERVATION AND ENHANCEMENT							
3.	Fish and Wildlife	LNR 401		14.00*	14.00*		
	Operating		LNR	178,543A	175,943A	354,486A	
			LNR	61,150N	62,089N	123,239N	
4.	Forests and Open Spaces	LNR 402		51.00*	51.00*		
	Operating		LNR	924,256A	916,582A	1,840,838A	
			LNR	80,700N	80,700N	161,400N	
	Investment: Capital		LNR	75,000C	31,000C	106,000C	
5.	Mineral Resources	LNR 403		2.00*	2.00*		
	Operating		LNR	34,928A	36,478A	71,406A	
			LNR	50,000N	50,000N	100,000N	
6.	Water Resources	LNR 404		11.00*	11.00*		
	Operating		LNR	862,263A	779,413A	1,641,676A	
			LNR	600,000N	555,000N	1,155,000N	
			LNR	12,900R	12,900R	25,800R	
7.	Coastal Areas	TRN 903					
	Investment: Capital		TRN	80,000C	350,000C	430,000C	
GENERAL SUPPORT FOR NAT PHYS ENVIRONMENT							
8.	Policy Dvlpmt, Coord & Anlys for Nat P	GOV 401		11.00*	10.00*		
	Operating		GOV	325,176A	234,845A	560,021A	

9.	LNR Natural Physical Environment	LNR 906		28.50*	29.50*	
	Operating		LNR	811,438A	727,679A	1,539,117A
			LNR	70,000N	70,000N	140,000N
10.	HTH—Natural Physical Environment	HTH 849		8.00*	8.00*	
	Operating		HTH	248,151A	252,041A	500,192A
				3.00*	4.00*	
			HTH	71,736N	72,166N	143,902N
<b>E. HEALTH</b>						
<b>PHYSICAL HEALTH</b>						
<b>Communicable Diseases</b>						
1.	HTH Tuberculosis	HTH 101		35.00*	35.00*	
	Operating		HTH	743,587A	791,041A	1,534,628A
				10.00*	10.00*	
			HTH	177,584N	182,141N	359,725N
2.	HTH Leprosy	HTH 111		93.00*	86.00*	
	Operating		HTH	1,833,632A	1,785,387A	3,619,019A
			HTH	109,279B	109,246B	218,525B
	Investment: Capital		AGS	C	50,000C	50,000C
3.	HTH Venereal Disease	HTH 121		10.00*	10.00*	
	Operating		HTH	281,213A	271,827A	553,040A
				4.00*	4.00*	
			HTH	98,393N	87,355N	185,748N
4.	HTH Other Communicable Diseases	HTH 131		10.00*	10.00*	
	Operating		HTH	208,202A	208,039A	416,241A
				2.00*	2.00*	
			HTH	60,548N	61,572N	122,120N
5.	HTH Supporting Services for Commun Diseases	HTH 139		6.00*	6.00*	
	Operating		HTH	74,093A	75,085A	149,178A

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
6.	Dental Diseases	HTH 141							
	Operating		HTH	50.00*		50.00*			
				677,005A		643,259A		1,320,264A	
			HTH	1.20*		1.20*			
				24,010N		25,140N		49,150N	
7.	Chronic Diseases	HTH 151							
	Operating		HTH	3.00*		3.00*			
				227,718A		367,918A		595,636A	
			HTH	2.00*		2.00*			
				116,177N		116,277N		232,454N	
8.	Nutrition Services	HTH 160							
	Operating		HTH	5.75*		5.75*			
				88,322A		90,214A		178,536A	
			HTH	8.25*		8.25*			
				598,844N		166,289N		765,133N	
9.	Emergency Medical Services	HTH 170							
	Operating		HTH	5.00*		5.00*			
				277,268A		614,797A		892,065A	
			HTH	6.00*		5.00*			
	Investment: Capital		AGS	570,117N		526,414N		1,096,531N	
				C		76,000C		76,000C	
10.	Sensory Deficiencies	HTH 180							
	Operating		HTH	6.00*		6.00*			
				99,272A		291,931A		391,203A	
11.	Family Planning	HTH 185							
	Operating		HTH	92,160A		92,322A		184,482A	
			HTH	20.25*		20.25*			
				1,472,377N		1,478,778N		2,951,155N	

12.	School Health Services	HTH 191				
	Operating		HTH	13.00* 1,117,478A	13.00* 1,175,641A	2,293,119A
13.	Hospital Care Hilo Hospital Operating	HTH 211	HTH	2,344,451A 496.20*	2,378,427A 498.20*	4,722,878A
	Investment: Capital		HTH	7,793,000B	7,910,020B	15,703,020B
			AGS	400,000C	2,817,000C	3,217,000C
14.	Honokaa Hospital Operating	HTH 212	HTH	266,365A 44.00*	273,767A 44.00*	540,132A
			HTH	594,868B	608,000B	1,202,868B
15.	Ka'u Hospital Operating	HTH 213	HTH	302,212A 29.00*	270,101A 29.00*	572,313A
			HTH	264,819B	283,160B	547,979B
16.	Kohala Hospital Operating	HTH 214	HTH	203,146A 30.00*	205,606A 30.00*	408,752A
	Investment: Capital		HTH	315,466B	320,384B	635,850B
			AGS	18,000C	C	18,000C
17.	Kona Hospital Operating	HTH 215	HTH	1,001,167A 120.00*	887,625A 130.00*	1,888,792A
	Investment: Capital		HTH	1,299,058B	1,537,022B	2,836,080B
			AGS	C	30,000C	30,000C
18.	Maui Memorial Hospital Operating	HTH 221	HTH	1,235,729A 275.50*	1,267,499A 316.50*	2,503,228A
			HTH	4,500,000B	4,835,693B	9,335,693B
19.	Hana Medical Center Operating	HTH 222	HTH	149,866A 6.00*	167,788A 6.00*	317,654A
			HTH	49,500B	51,000B	100,500B

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
20.	Kula Hospital Operating	HTH 223	HTH	1,380,992A 179.00*	1,386,945A 179.00*	2,767,937A
	Investment: Capital		HTH AGS	1,426,640B C	1,448,040B 4,203,000C	2,874,680B 4,203,000C
21.	Lanai Hospital Operating	HTH 224	HTH	270,792A 17.50*	266,425A 17.50*	537,217A
			HTH	147,000B	153,000B	300,000B
22.	Kauai Memorial Hospital Operating	HTH 231	HTH	783,160A 82.00*	812,404A 92.00*	1,595,564A
			HTH	1,083,803B	1,285,915B	2,369,718B
23.	Samuel Mahelona Memorial Hospital Operating	HTH 232	HTH	1,371,276A 137.00*	1,404,551A 140.00*	2,775,827A
	Investment: Capital		HTH AGS	741,600B 26,000C	786,825B C	1,528,425B 26,000C
24.	Maluhia Hospital Operating	HTH 241	HTH	800,813A 180.50*	871,614A 180.50*	1,672,427A
	Investment: Capital		HTH AGS	2,139,377B 185,000C	2,167,408B C	4,306,785B 185,000C
25.	Leahi Hospital Operating	HTH 242	HTH	2,284,384A 321.00*	2,327,858A 309.00*	4,612,242A
	Investment: Capital		HTH AGS	2,905,461B 535,000C	3,050,734B 700,000C	5,956,195B 1,235,000C

MENTAL HEALTH					
26.	Community Based Services for MH	HTH 401			
	Operating	HTH	352.50*	356.50*	
			4,827,482A	7,122,347A	11,949,829A
			12.50*	12.50*	
		HTH	1,999,269N	1,989,112N	3,988,381N
		HTH	1,344,667P	1,273,223P	2,617,890P
27.	Hawaii State Hospital	HTH 430			
	Operating	HTH	348.00*	348.00*	
	Investment: Capital	AGS	5,248,604A	5,430,085A	10,678,689A
			C	579,000C	579,000C
28.	General Support for MH	HTH 495			
	Operating	HTH	40.50*	40.50*	
			726,505A	971,732A	1,698,237A
			4.00*	4.00*	
		HTH	76,756N	80,548N	157,304N
MENTAL RETARDATION					
29.	Early Identification & Treatment for MR	HTH 500			
	Operating	HTH	59.60*	59.60*	
			532,570A	587,135A	1,119,705A
			29.45*	29.45*	
		HTH	744,397N	761,063N	1,505,460N
		HTH	1,000,000P	1,000,000P	2,000,000P
30.	Community Based Services for MR	HTH 501			
	Operating	HTH	30.00*	30.00*	
			1,092,066A	1,155,498A	2,247,564A
			41.00*	41.00*	
		HTH	656,636N	687,476N	1,344,112N
31.	Waimano Training School and Hospital	HTH 511			
	Operating	HTH	590.00*	590.00*	
			7,927,246A	8,015,575A	15,942,821A

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F		
32.	COMMUNITY HEALTH SERVICES										
	Vector Control	HTH 601									
						87.00*		87.00*			
	Operating		HTH			1,102,506A		1,150,681A		2,253,187A	
			HTH			6,000T		6,000T		12,000T	
						2.00*		2.00*			
			HTH			17,921X		18,712X		36,633X	
33.	Sanitation & Substance Control		HTH 611								
						73.50*		73.50*			
	Operating		HTH			1,188,749A		1,236,571A		2,425,320A	
						1.00*		1.00*			
			HTH			15,109N		15,812N		30,921N	
34.	Drinking Water Quality		HTH 621								
						3.00*		3.00*			
	Operating		HTH			27,685A		29,013A		56,698A	
						1.00*		1.00*			
			HTH			150,000N		150,000N		300,000N	
	Investment: Capital		HTH			980,000C		1,733,000C		2,713,000C	
35.	MEDICAL FACILITIES—STDs, INSPECTION, LICEN		HTH 701								
						5.00*		5.00*			
	Operating		HTH			81,591A		84,854A		166,445A	
						9.50*		9.50*			
			HTH			255,561N		263,446N		519,007N	



OVERALL PROGRAM SUPPORT						
36.	Laboratory Services	HTH 901		48.50*	48.50*	
	Operating		HTH	782,565A	794,719A	1,577,284A
				6.00*	6.00*	
			HTH	129,926N	133,388N	263,314N
37.	Public Health Nursing Services	HTH 902		126.00*	126.00*	
	Operating		HTH	1,900,184A	1,940,541A	3,840,725A
				4.00*	4.00*	
	Investment: Capital		HTH	45,312N	45,816N	91,128N
			AGS	100,000C	C	100,000C
38.	Records, Data Collection and Research	HTH 903		35.00*	35.00*	
	Operating		HTH	581,844A	592,387A	1,174,231A
				2.00*	2.00*	
			HTH	30,472N	31,887N	62,359N
39.	Health Education	HTH 908		16.00*	16.00*	
	Operating		HTH	401,149A	522,907A	924,056A
				1.00*	1.00*	
			HTH	9,715N	10,200N	19,915N
40.	Comprehensive Health Planning	HTH 906		6.00*	6.00*	
	Operating		HTH	148,500A	146,849A	295,349A
				25.00*	26.00*	
			HTH	560,099N	598,079N	1,158,178N
41.	General Administration	HTH 907		121.00*	121.00*	
	Operating		HTH	2,498,694A	2,565,571A	5,064,265A
				12.00*	12.00*	
			HTH	254,706B	262,315B	517,021B
				6.50*	6.50*	
			HTH	191,497N	192,023N	383,520N

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
42.	Private Hospitals & Medical Services Operating	SUB 601	HTH	275,000A		614,853A		889.853A	
<b>F. SOCIAL PROBLEMS</b>									
<b>ALLEVIATION OF INDIVIDUAL AND GROUP PROB</b>									
1.	Assistance to Families and/or Children Services to School-Age Hawaiians	HHL 601		4.00*		4.00*			
	Operating		HHL	477,703B		482,089B		959.792B	
2.	Services to Families and/or Children	SOC 101		60.03*		60.43*			
	Operating		SOC	2,428,704A		2,598,702A		5,027.406A	
				86.39*		86.99*			
			SOC	5,549,367N		5,615,417N		11,164.784N	
			SOC	99,838R		100,038R		199.876R	
			SOC	237,025U		237,025U		474.050U	
3.	Assistance to Individual Adults	SOC 121		31.02*		31.02*			
	Operating		SOC	921,302A		981,000A		1,902.302A	
				41.21*		41.21*			
			SOC	4,408,587N		4,373,624N		8,782.211N	
			SOC	22,037R		22,037R		44.074R	
			SOC	913,450U		896,697U		1,810.147U	
<b>ASSURED STANDARD OF LIVING</b>									
<b>Monetary Assistance for General Needs</b>									
4.	Payments to Assist Families with Depndnt Operating	SOC 201							
			SOC	37,624,568A		42,020,295A		79,644.863A	
			SOC	37,875.652N		43,149,217N		81,024.869N	
			SOC	3,000,000P		2,000,000P		5,000.000P	

5.	Payments to Assist the Aged, Blind & Disa Operating	SOC 202	SOC	5,159,948A	6,729,140A	11,789,088A
6.	Paymnts to Assist in Child Welfr Foster Operating	SOC 203	SOC	1,345,787A	1,257,432A	2,603,219A
7.	Other General Assistance Payments Operating	SOC 204	SOC	22,731,097A	24,174,492A	46,905,589A
8.	Housing Assistance Rental Housing Augmentation and Assistan Operating	SOC 220	SOC	8.00* 1,048,554A 21.50*	8.00* 1,105,556A 21.50*	2,154,110A
			SOC	1,735,065B 193.00*	2,183,576B 193.00*	3,918,641B
	Investment: Capital		SOC AGS	5,822,884N C	5,626,683N 954,000C	11,449,567N 954,000C
9.	Private Housing Augmentation Housing Loans to Native Hawaiians Operating Investment: Capital	HHL 611	HHL HHL	36.00* 768,856B 2,818,000C	36.00* 795,664B 4,760,000C	1,564,520B 7,578,000C
10.	Private Housing Development & Ownership Operating	SOC 225	SOC	23.00* 710,605B	23.00* 727,823B	1,438,428B
11.	Broadened Homesite Ownership Operating	SOC 223	SOC	1.00* 26,820A	1.00* 54,927A	81,747A
12.	Housing Assistance Administration Operating	SOC 229	SOC	5.60* 76,848A 13.00* 268,858B 10.40* 214,900N	5.60* 79,473A 13.00* 285,243B 10.40* 211,569N	156,321A 554,101B 426,469N

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13.	Health Care Assistance Health Care Payments Operating	SOC 230									
			SOC			43,181,019A		54,108,569A		97,289,588A	
			SOC			35,620,667N		46,736,167N		82,356,834N	
			SOC			4,000,000P		3,000,000P		7,000,000P	
			SOC				U	4,697,915U		4,697,915U	
14.	Health Care Services	HTH 801									
	Operating					45.10*		45.10*			
			HTH			323,657A		716,825A		1,040,482A	
						57.00*		57.00*			
			HTH			1,387,000N		1,440,932N		2,827,932N	
			HTH			1,000,000P		1,000,000P		2,000,000P	
15.	Veterans Cemeteries and Burial Payments Operating	SUB 806									
			HTH			26,250A		36,250A		62,500A	
16.	General Support for Assured Std of Living Eligibility Determination	SOC 236									
	Operating					282.60*		284.67*			
			SOC			3,860,586A		4,451,244A		8,311,830A	
						215.75*		221.68*			
			SOC			4,245,201N		3,675,543N		7,920,744N	
17.	Disability Determination	SOC 238									
	Operating					52.00*		52.00*			
			SOC			1,129,029N		1,178,019N		2,307,048N	

OVERALL PROGRAM SUPPORT FOR SOCIAL PROBL							
18.	Plan, Program Dev & Coord of Svcs for Di Research and Development	GOV	860	GOV	132,333A 7.00*	133,306A 7.00*	265,639A
	Operating			GOV	2,480,556A 8.00*	3,003,887A 8.00*	5,484,443A
				GOV	574,471N	493,392N	1,067,863N
				GOV	58,300U	U	58,300U
19.	Plan, Program Dev & Coord of Svcs for C	GOV	861		9.00*	9.00*	
	Operating			GOV	184,823A	295,290A	480,113A
20.	Plan, Program Dev & Coord of Svcs for Eld	GOV	602		5.55*	5.55*	
	Operating			GOV	540,589A 7.45*	551,792A 7.45*	1,092,381A
				GOV	1,845,000N	1,845,000N	3,690,000N
				GOV	500,000P	500,000P	1,000,000P
21.	General Support for Public Welfare	SOC	903		28.74*	28.99*	
	Operating			SOC	1,876,102A 33.26*	1,906,386A 34.01*	3,782,488A
				SOC	1,923,100N	1,781,694N	3,704,794N
22.	General Administration	SOC	904		97.06*	99.43*	
	Operating			SOC	1,624,678A 27.94*	1,673,783A 30.57*	3,298,461A
				SOC	1,009,387N	1,032,639N	2,042,026N
G. FORMAL EDUCATION							
LOWER EDUCATION							
	Instruction						
	Regular Instruction Program	EDN	105				
	Operating				6,630.50*	6,595.50*	
				EDN	108,909,513A	107,273,136A	216,182,649A
				EDN	13,152,355N	15,149,357N	28,301,712N
				EDN	3,000,000P	2,500,000P	5,500,000P
	Investment: Capital			AGS	17,527,000C	10,882,000C	28,409,000C

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
<p>Provided, that EDN 105 is comprised of EDN 105-1 through EDN 105-223 and federal funds from P.L. 90-576 or P.L. 94-482;</p> <p>Provided, further, that the general fund amounts appropriated for the operating cost category for EDN 105 are comprised of \$107,313,649 for "Operating: Basic Needs" and \$1,595,864 for "Operating: Special Needs" for fiscal year 1977-78 and \$105,634,457 for "Operating: Basic Needs" and \$1,638,679 for "Operating: Special Needs" for fiscal year 1978-1979 and the general fund amount for the total biennium is comprised of \$212,948,106 for "Operating: Basic Needs" and \$3,234,543 for "Operating: Special Needs."</p>									
Central District Schools									
Aiea Elementary		EDN 105-1							
				20.00*		20.00*			
Operating: Basic Needs			EDN	397,823		397,711		795,534	
Operating: Special Needs			EDN	5,500A		5,808A		11,308A	
Aiea High		EDN 105-2							
				73.00*		73.00*			
Operating: Basic Needs			EDN	1,340,515		1,348,816		2,689,331	
Operating: Special Needs			EDN	15,482A		16,196A		31,678A	
Aiea Intermediate		EDN 105-3							
				38.00*		38.00*			
Operating: Basic Needs			EDN	716,166		715,153		1,431,319	
Operating: Special Needs			EDN	8,944A		8,181A		17,125A	

Aliamanu Elementary	EDN 105-4		45.00*	45.00*	
Operating: Basic Needs		EDN	847,054	848,610	1,695,664
Operating: Special Needs		EDN	10,302A	9,602A	19,904A
Aliamanu Intermediate	EDN 105-5		50.00*	50.00*	
Operating: Basic Needs		EDN	926,385	927,014	1,853,399
Operating: Special Needs		EDN	11,086A	11,184A	22,270A
Hale Kula Elementary	EDN 105-6		43.00*	43.00*	
Operating: Basic Needs		EDN	753,518	756,858	1,510,376
Operating: Special Needs		EDN	9,518A	8,909A	18,427A
Haleiwa Elementary	EDN 105-7		16.00*	16.00*	
Operating: Basic Needs		EDN	302,537	301,806	604,343
Operating: Special Needs		EDN	4,793A	4,674A	9,467A
Helemano Elementary	EDN 105-8		15.00*	15.00*	
Operating: Basic Needs		EDN	290,266	290,388	580,654
Operating: Special Needs		EDN	4,660A	4,632A	9,292A
Hickam Elementary	EDN 105-9		29.00*	29.00*	
Operating: Basic Needs		EDN	491,585	493,776	985,361
Operating: Special Needs		EDN	6,900A	7,796A	14,696A
Iliahi Elementary	EDN 105-10		13.00*	13.00*	
Operating: Basic Needs		EDN	265,495	264,658	530,153
Operating: Special Needs		EDN	4,268A	3,897A	8,165A
Kaala Elementary	EDN 105-11		24.00*	24.00*	
Operating: Basic Needs		EDN	461,606	463,592	925,198
Operating: Special Needs		EDN	5,822A	5,682A	11,504A
Kipapa Elementary	EDN 105-12		30.00*	30.00*	
Operating: Basic Needs		EDN	514,053	515,656	1,029,709
Operating: Special Needs		EDN	7,334A	7,502A	14,836A

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
	Kunia Elementary	EDN 105-13		4.00*	4.00*	
	Operating: Basic Needs		EDN	75,931	75,469	151,400
	Operating: Special Needs		EDN	2,609A	2,560A	5,169A
	Leilehua High	EDN 105-14		84.00*	84.00*	
	Operating: Basic Needs		EDN	1,485,954	1,487,429	2,973,383
	Operating: Special Needs		EDN	17,281A	16,287A	33,568A
	Makalapa Elementary	EDN 105-15		20.00*	20.00*	
	Operating: Basic Needs		EDN	358,465	365,088	723,533
	Operating: Special Needs		EDN	5,346A	5,969A	11,315A
	Mililani High	EDN 105-16		48.00*	48.00*	
	Operating: Basic Needs		EDN	789,638	775,256	1,564,894
	Operating: Special Needs		EDN	10,589A	11,520A	22,109A
	Mililani-Uka Elementary	EDN 105-17		28.00*	28.00*	
	Operating: Basic Needs		EDN	473,258	482,877	956,135
	Operating: Special Needs		EDN	6,949A	8,125A	15,074A
	Mililani-Waena Elementary	EDN 105-18		34.00*	34.00*	
	Operating: Basic Needs		EDN	580,640	582,573	1,163,213
	Operating: Special Needs		EDN	7,740A	7,481A	15,221A
	Moanalua Elementary	EDN 105-19		31.00*	31.00*	
	Operating: Basic Needs		EDN	587,551	585,000	1,172,551
	Operating: Special Needs		EDN	7,558A	7,558A	15,116A



Moanalua High	EDN 105-20	62.00*	62.00*	
Operating: Basic Needs	EDN	1,068,084A	1,060,141A	2,128,225A
Operating: Special Needs	EDN	13,347A	13,536A	26,883A
Moanalua Intermediate	EDN 105-21	33.00*	33.00*	
Operating: Basic Needs	EDN	568,479	577,031	1,145,510
Operating: Special Needs	EDN	7,775A	7,964A	15,739A
Mokulele Elementary	EDN 105-22	25.00*	25.00*	
Operating: Basic Needs	EDN	464,711	464,052	928,763
Operating: Special Needs	EDN	6,046A	5,360A	11,406A
Nimitz Elementary	EDN 105-23	33.00*	33.00*	
Operating: Basic Needs	EDN	609,669	610,806	1,220,475
Operating: Special Needs	EDN	8,027A	7,824A	15,851A
Pearl Harbor Elementary	EDN 105-24	32.00*	32.00*	
Operating: Basic Needs	EDN	580,961	580,516	1,161,477
Operating: Special Needs	EDN	7,516A	6,809A	14,325A
Pearl Harbor Kai Elementary	EDN 105-25	20.00*	20.00*	
Operating: Basic Needs	EDN	393,554	393,344	786,898
Operating: Special Needs	EDN	5,514A	6,935A	12,449A
Pearl Ridge Elementary	EDN 105-26	19.00*	19.00*	
Operating: Basic Needs	EDN	328,916	329,278	658,194
Operating: Special Needs	EDN	5,059A	5,360A	10,419A
Radford High	EDN 105-27	87.00*	87.00*	
Operating: Basic Needs	EDN	1,615,974	1,618,516	3,234,490
Operating: Special Needs	EDN	17,848A	16,819A	34,667A
Red Hill Elementary	EDN 105-28	25.00*	25.00*	
Operating: Basic Needs	EDN	461,316	487,644	948,960
Operating: Special Needs	EDN	6,431A	7,320A	13,751A

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Salt Lake Elementary	EDN 105-29		33.00*		33.00*			
	Operating: Basic Needs		EDN	614,876		615,977		1,230,853	
	Operating: Special Needs		EDN	8,034A		7,964A		15,998A	
	Scott Elementary	EDN 105-30		34.00*		34.00*			
	Operating: Basic Needs		EDN	666,074		667,756		1,333,830	
	Operating: Special Needs		EDN	8,195A		8,461A		16,656A	
	Shafter Elementary	EDN 105-31		17.00*		17.00*			
	Operating: Basic Needs		EDN	310,896		311,685		622,581	
	Operating: Special Needs		EDN	5,164A		4,954A		10,118A	
	Solomon Elementary	EDN 105-32		41.00*		41.00*			
	Operating: Basic Needs		EDN	712,037		714,224		1,426,261	
	Operating: Special Needs		EDN	9,455A		8,580A		18,035A	
	Wahiawa Elementary	EDN 105-33		25.00*		25.00*			
	Operating: Basic Needs		EDN	501,536		501,554		1,003,090	
	Operating: Special Needs		EDN	6,438A		6,172A		12,610A	
	Wahiawa Intermediate	EDN 105-34		41.00*		41.00*			
	Operating: Basic Needs		EDN	736,895		732,525		1,469,420	
	Operating: Special Needs		EDN	9,252A		8,937A		18,189A	
	Waiialua Elementary	EDN 105-35		19.00*		19.00*			
	Operating: Basic Needs		EDN	310,495		312,567		623,062	
	Operating: Special Needs		EDN	5,304A		5,430A		10,734A	

Waialua High-Intermediate	EDN 105-36		40.00*	40.00*	
Operating: Basic Needs		EDN	697,024A	767,811A	1,464,835A
Operating: Special Needs		EDN	8,979A	9,385A	18,364A
Webbing Elementary	EDN 105-37				
Operating: Basic Needs		EDN	16.00*	16.00*	
Operating: Special Needs		EDN	322,170	322,455	644,625
Wheeler Elementary	EDN 105-38		4,737A	5,164A	9,901A
Operating: Basic Needs		EDN	30.00*	30.00*	
Operating: Special Needs		EDN	552,920	556,564	1,109,484
Wheeler Intermediate	EDN 105-39		7,159A	7,453A	14,612A
Operating: Basic Needs		EDN	27.00*	27.00*	
Operating: Special Needs		EDN	459,132	462,400	921,532
Hawaii District Schools			6,844A	7,075A	13,919A
Desilva Elementary	EDN 105-40				
Operating: Basic Needs		EDN	13.00*	13.00*	
Operating: Special Needs		EDN	260,808	261,596	522,404
Haaheo Elementary	EDN 105-41		4,583A	4,429A	9,012A
Operating: Basic Needs		EDN	5.00*	5.00*	
Operating: Special Needs		EDN	92,491	92,716	185,207
Hilo High	EDN 105-42		2,805A	2,777A	5,582A
Operating: Basic Needs		EDN	77.00*	77.00*	
Operating: Special Needs		EDN	481,075	1,480,811	2,961,886
Hilo Intermediate	EDN 105-43		15,937A	12,304A	28,241A
Operating: Basic Needs		EDN	19.00*	19.00*	
Operating: Special Needs		EDN	373,154	370,363	743,517
Hilo Union Elementary	EDN 105-44		5,759A	7,859A	13,618A
Operating: Basic Needs		EDN	25.00*	25.00*	
Operating: Special Needs		EDN	480,102	483,578	963,680
			6,291A	6,564A	12,855A

Item No.	Program	Program ID Org. No.	Exp. Agy.	APPROPRIATIONS		Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Holualoa Elementary	EDN 105-45				9.00*		9.00*			
	Operating: Basic Needs		EDN			164,211		164,822		329,033	
	Operating: Special Needs		EDN			3,568A		3,680A		7,248A	
	Honaunau Elementary	EDN 105-46				9.00*		9.00*			
	Operating: Basic Needs		EDN			171,363		172,879		344,242	
	Operating: Special Needs		EDN			3,610A		4,002A		7,612A	
	Honokaa High-Elementary	EDN 105-47				39.00*		39.00*			
	Operating: Basic Needs		EDN			720,930		724,940		1,445,870	
	Operating: Special Needs		EDN			8,426A		9,084A		17,510A	
	Hookena Elementary	EDN 105-48				5.00*		5.00*			
	Operating: Basic Needs		EDN			96,186		96,474		192,660	
	Operating: Special Needs		EDN			2,847A		2,945A		5,792A	
	Kalaniana'ole Elementary-Intermediate	EDN 105-49				34.00*		34.00*			
	Operating: Basic Needs		EDN			619,932		619,738		1,239,670	
	Operating: Special Needs		EDN			7,173A		7,579A		14,752A	
	Kapiolani Elementary	EDN 105-50				22.00*		22.00*			
	Operating: Basic Needs		EDN			425,660		427,896		853,556	
	Operating: Special Needs		EDN			6,165A		6,151A		12,316A	
	Ka'u High and Pahala Elementary	EDN 105-51				26.00*		26.00*			
	Operating: Basic Needs		EDN			463,573		466,095		929,668	
	Operating: Special Needs		EDN			5,717A		5,752A		11,469A	

Kaumana Elementary	EDN 105-52		7.00*	7.00*	
Operating: Basic Needs		EDN	124,611	125,285	249,896
Operating: Special Needs		EDN	3,274A	3,414A	6,688A
Keaau Elementary-Intermediate	EDN 105-53		19.00*	19.00*	
Operating: Basic Needs		EDN	377,622	379,844	757,466
Operating: Special Needs		EDN	5,416A	5,444A	10,860A
Kealakehe Elementary	EDN 105-54		40.00*	40.00*	
Operating: Basic Needs		EDN	692,126	696,022	1,388,148
Operating: Special Needs		EDN	9,238A	9,602A	18,840A
Keaukaha Elementary	EDN 105-55		8.00*	8.00*	
Operating: Basic Needs		EDN	164,785	165,617	330,402
Operating: Special Needs		EDN	3,561A	3,897A	7,458A
Kohala High-Elementary	EDN 105-56		33.00*	33.00*	
Operating: Basic Needs		EDN	599,115	602,009	1,201,124
Operating: Special Needs		EDN	7,103A	7,124A	14,227A
Konawaena Elementary	EDN 105-57		24.00*	24.00*	
Operating: Basic Needs		EDN	468,450	469,972	938,422
Operating: Special Needs		EDN	6,081A	6,074A	12,155A
Konawaena High-Intermediate	EDN 105-58		44.00*	44.00*	
Operating: Basic Needs		EDN	830,069	833,663	1,663,732
Operating: Special Needs		EDN	10,155A	10,400A	20,555A
Laupahoehoe High-Elementary	EDN 105-59		20.00*	20.00*	
Operating: Basic Needs		EDN	385,602	387,741	773,343
Operating: Special Needs		EDN	4,562A	4,751A	9,313A
Mountain View Elementary and Intermediate	EDN 105-60		12.00*	12.00*	
Operating: Basic Needs		EDN	228,123	229,067	457,190
Operating: Special Needs		EDN	3,897A	3,953A	7,850A

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	Naaiehu Elementary	EDN 105-61		11.00*	11.00*	
	Operating: Basic Needs		EDN	203,911	205,482	409,393
	Operating: Special Needs		EDN	3,813A	3,960A	7,773A
	Paauiio Elementary-Intermediate	EDN 105-62		8.50*	8.50*	
	Operating: Basic Needs		EDN	157,926	160,428	318,354
	Operating: Special Needs		EDN	3,379A	3,547A	6,926A
	Pahoa High-Elementary	EDN 105-63		42.00*	42.00*	
	Operating: Basic Needs		EDN	732,905	738,260	1,471,165
	Operating: Special Needs		EDN	8,615A	9,490A	18,105A
	Waiakea Elementary	EDN 105-64		26.00*	26.00*	
	Operating: Basic Needs		EDN	505,218	506,887	1,012,105
	Operating: Special Needs		EDN	6,718A	7,159A	13,877A
	Waiakea High	EDN 105-65		25.00*	25.00*	
	Operating: Basic Needs		EDN	553,255	479,552	1,032,807
	Operating: Special Needs		EDN	6,774A	9,924A	16,698A
	Waiakea Intermediate	EDN 105-66		21.00*	21.00*	
	Operating: Basic Needs		EDN	408,700	410,403	819,103
	Operating: Special Needs		EDN	5,584A	6,340A	11,924A
	Waiakeawaena Elementary	EDN 105-67		33.00*	33.00*	
	Operating: Basic Needs		EDN	684,789	687,606	1,372,395
	Operating: Special Needs		EDN	7,887A	7,845A	15,732A
	Waimea Elementary-Intermediate	EDN 105-68		22.00*	22.00*	
	Operating: Basic Needs		EDN	403,346	405,189	808,535
	Operating: Special Needs		EDN	6,025A	6,592A	12,617A

Honolulu District Schools					
Aina Haina Elementary	EDN 105-69		19.00*	19.00*	
Operating: Basic Needs		EDN	415,854	416,844	830,520
Operating: Special Needs		EDN	5,598A	5,738A	11,336A
Ala Wai Elementary	EDN 105-70		33.00*	33.00*	
Operating: Basic Needs		EDN	641,381	644,852	1,286,233
Operating: Special Needs		EDN	7,614A	7,628A	15,242A
Aliiolani Elementary	EDN 105-71		18.00*	18.00*	
Operating: Basic Needs		EDN	389,375	390,087	779,462
Operating: Special Needs		EDN	5,297A	5,486A	10,783A
Anuenue Elementary	EDN 105-72		8.00*	8.00*	
Operating: Basic Needs		EDN	158,002	157,902	315,904
Operating: Special Needs		EDN	3,295A	3,246A	6,541A
Central Intermediate	EDN 105-73		27.00*	27.00*	
Operating: Basic Needs		EDN	493,551	493,998	987,549
Operating: Special Needs		EDN	6,368A	6,480A	12,848A
Dole Intermediate	EDN 105-74		44.00*	44.00*	
Operating: Basic Needs		EDN	834,646	836,448	1,671,094
Operating: Special Needs		EDN	9,861A	9,826A	19,687A
Farrington High	EDN 105-75		95.00*	95.00*	
Operating: Basic Needs		EDN	1,854,355	1,861,570	3,715,925
Operating: Special Needs		EDN	19,766A	20,536A	40,302A
Fern Elementary	EDN 105-76		28.00*	28.00*	
Operating: Basic Needs		EDN	556,018	559,692	1,115,710
Operating: Special Needs		EDN	6,585A	6,123A	12,708A
Hahaione Elementary	EDN 105-77		29.00*	29.00*	
Operating: Basic Needs		EDN	545,040	551,786	1,096,826
Operating: Special Needs		EDN	6,998A	6,802A	13,800A

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
	Hokulani Elementary	EDN 105-78		9.00*	9.00*	
	Operating: Basic Needs		EDN	198,352	196,588	392,940
	Operating: Special Needs		EDN	3,785A	3,841A	7,626A
	Jarrett Intermediate	EDN 105-79		24.00*	24.00*	
	Operating: Basic Needs		EDN	480,114	480,110	960,224
	Operating: Special Needs		EDN	5,899A	5,570A	11,469A
	Jefferson Elementary	EDN 105-80		28.00*	28.00*	
	Operating: Basic Needs		EDN	551,909	553,132	1,105,041
	Operating: Special Needs		EDN	6,655A	7,026A	13,681A
	Kaahumanu Elementary	EDN 105-81		33.00*	33.00*	
	Operating: Basic Needs		EDN	656,944	660,996	1,317,940
	Operating: Special Needs		EDN	7,852A	7,894A	15,746A
	Kaewai Elementary	EDN 105-82		19.00*	19.00*	
	Operating: Basic Needs		EDN	384,342	385,585	769,927
	Operating: Special Needs		EDN	5,213A	5,710A	10,923A
	Kahala Elementary	EDN 105-83		20.00*	20.00*	
	Operating: Basic Needs		EDN	414,750	415,925	830,675
	Operating: Special Needs		EDN	5,437A	5,654A	11,091A
	Kaimuki High	EDN 105-84		68.00*	68.00*	
	Operating: Basic Needs		EDN	1,374,678	1,381,828	2,756,506
	Operating: Special Needs		EDN	14,502A	14,061A	28,563A
	Kaimuki Intermediate	EDN 105-85		46.00*	46.00*	
	Operating: Basic Needs		EDN	827,581	825,949	1,653,530
	Operating: Special Needs		EDN	9,973A	10,092A	20,065A



Kaiser High	EDN 105-86		67.00*	67.00*	
Operating: Basic Needs		EDN	1,192,082	1,181,484	2,373,566
Operating: Special Needs		EDN	14,215A	14,936A	29,151A
Kaiulani Elementary	EDN 105-87		17.00*	17.00*	
Operating: Basic Needs		EDN	347,071	347,526	694,597
Operating: Special Needs		EDN	4,891A	4,821A	9,712A
Kalakaua Intermediate	EDN 105-88		56.00*	56.00*	
Operating: Basic Needs		EDN	1,030,691	1,037,802	2,068,493
Operating: Special Needs		EDN	11,793A	12,262A	24,055A
Kalani High	EDN 105-89		68.00*	68.00*	
Operating: Basic Needs		EDN	1,341,056	1,348,982	2,690,038
Operating: Special Needs		EDN	14,180A	14,873A	29,053A
Kalihi Elementary	EDN 105-90		20.00*	20.00*	
Operating: Basic Needs		EDN	392,085	393,132	785,217
Operating: Special Needs		EDN	5,703A	5,724A	11,427A
Kalihi-Kai Elementary	EDN 105-91		37.00*	37.00*	
Operating: Basic Needs		EDN	733,546	737,726	1,471,272
Operating: Special Needs		EDN	8,272A	9,133A	17,405A
Kalihi-Uka Elementary	EDN 105-92		15.00*	15.00*	
Operating: Basic Needs		EDN	329,596	330,690	660,286
Operating: Special Needs		EDN	4,695A	5,052A	9,747A
Kalihi-Waena Elementary	EDN 105-93		26.00*	26.00*	
Operating: Basic Needs		EDN	509,970	511,820	1,021,790
Operating: Special Needs		EDN	6,515A	6,760A	13,275A
Kamiloiki Elementary	EDN 105-94		32.00*	32.00*	
Operating: Basic Needs		EDN	626,265	633,538	1,259,803
Operating: Special Needs		EDN	7,390A	7,082A	14,472A

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
	Kapalama Elementary	EDN 105-95		32.00*	32.00*	
	Operating: Basic Needs		EDN	638,309	641,729	1,280,038
	Operating: Special Needs		EDN	7,551A	7,537A	15,088A
	Kauluwela Elementary	EDN 105-96		24.00*	24.00*	
	Operating: Basic Needs		EDN	439,692	440,843	880,535
	Operating: Special Needs		EDN	6,025A	6,844A	12,869A
	Kawananakoa Intermediate	EDN 105-97		45.00*	45.00*	
	Operating: Basic Needs		EDN	820,032	823,823	1,643,855
	Operating: Special Needs		EDN	9,602A	9,462A	19,064A
	Koko Head Elementary	EDN 105-98		26.00*	26.00*	
	Operating: Basic Needs		EDN	546,574	549,834	1,096,408
	Operating: Special Needs		EDN	6,291A	6,445A	12,736A
	Kuhio Elementary	EDN 105-99		21.00*	21.00*	
	Operating: Basic Needs		EDN	434,054	436,018	870,072
	Operating: Special Needs		EDN	5,556A	6,025A	11,581A
	Lanakila Elementary	EDN 105-100		19.00*	19.00*	
	Operating: Basic Needs		EDN	405,907	406,358	812,265
	Operating: Special Needs		EDN	5,304A	5,507A	10,811A
	Liholiho Elementary	EDN 105-101		17.00*	17.00*	
	Operating: Basic Needs		EDN	352,251	353,301	705,552
	Operating: Special Needs		EDN	4,681A	4,478A	9,159A
	Likelike Elementary	EDN 105-102		21.00*	21.00*	
	Operating: Basic Needs		EDN	411,766	413,015	824,781
	Operating: Special Needs		EDN	5,521A	5,836A	11,357A

Liliuokalani Elementary	EDN 105-103	15.00*	15.00*	
Operating: Basic Needs	EDN	316,601	317,878	634,479
Operating: Special Needs	EDN	4,324A	4,324A	8,648A
Linapuni Elementary	EDN 105-104	11.00*	11.00*	
Operating: Basic Needs	EDN	213,549	214,425	427,974
Operating: Special Needs	EDN	3,897A	3,862A	7,759A
Lincoln Elementary	EDN 105-105	24.00*	24.00*	
Operating: Basic Needs	EDN	500,905	502,685	1,003,590
Operating: Special Needs	EDN	6,151A	5,927A	12,078A
Lunalilo Elementary	EDN 105-106	36.00*	36.00*	
Operating: Basic Needs	EDN	686,754	689,507	1,376,261
Operating: Special Needs	EDN	8,132A	8,328A	16,460A
Maemae Elementary	EDN 105-107	37.00*	37.00*	
Operating: Basic Needs	EDN	744,475	746,950	1,491,425
Operating: Special Needs	EDN	8,363A	8,069A	16,432A
Manoa Elementary	EDN 105-108	25.00*	25.00*	
Operating: Basic Needs	EDN	542,928	544,587	1,087,515
Operating: Special Needs	EDN	6,410A	6,144A	12,554A
McKinley High	EDN 105-109	89.00*	89.00*	
Operating: Basic Needs	EDN	1,679,100	1,679,745	3,358,845
Operating: Special Needs	EDN	18,044A	18,835A	36,879A
Niu Valley Intermediate	EDN 105-110	45.00*	45.00*	
Operating: Basic Needs	EDN	828,330	830,126	1,658,456
Operating: Special Needs	EDN	9,805A	8,895A	18,700A
Noelani Elementary	EDN 105-111	14.00*	14.00*	
Operating: Basic Needs	EDN	303,150	304,727	607,877
Operating: Special Needs	EDN	4,324A	4,380A	8,704A

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Nuuanu Elementary	EDN 105-112		10.00*		10.00*			
	Operating: Basic Needs		EDN	204,477		205,267		409,744	
	Operating: Special Needs		EDN	3,687A		4,492A		8,179A	
	Palolo Elementary	EDN 105-113		17.00*		17.00*			
	Operating: Basic Needs		EDN	369,650		369,605		739,255	
	Operating: Special Needs		EDN	4,912A		5,157A		10,069A	
	Pauoa Elementary	EDN 105-114		19.00*		19.00*			
	Operating: Basic Needs		EDN	380,544		382,178		762,722	
	Operating: Special Needs		EDN	5,220A		5,234A		10,454A	
	Puuhale Elementary	EDN 105-115		19.00*		19.00*			
	Operating: Basic Needs		EDN	395,075		396,916		791,991	
	Operating: Special Needs		EDN	5,087A		5,003A		10,090A	
	Roosevelt High	EDN 105-116		62.00*		62.00*			
	Operating: Basic Needs		EDN	1,225,466		1,231,943		2,457,409	
	Operating: Special Needs		EDN	13,844A		13,627A		27,471A	
	Royal Elementary	EDN 105-117		14.00*		14.00*			
	Operating: Basic Needs		EDN	290,840		290,712		581,552	
	Operating: Special Needs		EDN	4,401A		4,961A		9,362A	
	Stevenson Intermediate	EDN 105-118		40.00*		40.00*			
	Operating: Basic Needs		EDN	760,277		764,145		1,524,422	
	Operating: Special Needs		EDN	8,797A		8,475A		17,272A	

Waialae Elementary	EDN 105-119	18.00*	18.00*	
Operating: Basic Needs	EDN	371,062	371,789	742,851
Operating: Special Needs	EDN	4,639A	4,912A	9,551A
Waikiki Elementary	EDN 105-120	14.00*	14.00*	
Operating: Basic Needs	EDN	294,799	295,957	590,756
Operating: Special Needs	EDN	4,247A	4,226A	8,473A
Wailupe Valley Elementary	EDN 105-121	7.00*	7.00*	
Operating: Basic Needs	EDN	144,396	145,559	289,955
Operating: Special Needs	EDN	3,015A	2,938A	5,953A
Washington Intermediate	EDN 105-122	53.00*	53.00*	
Operating: Basic Needs	EDN	938,130	944,813	1,882,943
Operating: Special Needs	EDN	11,184A	11,520A	22,704A
Wilson Elementary	EDN 105-123	16.00*	16.00*	
Operating: Basic Needs	EDN	346,886	347,484	694,370
Operating: Special Needs	EDN	4,821A	4,576A	9,397A
Kauai District Schools Eleele Elementary	EDN 105-124	15.00*	15.00*	
Operating: Basic Needs	EDN	275,218	276,037	551,255
Operating: Special Needs	EDN	4,016A	4,177A	8,193A
Hanalei Elementary	EDN 105-125	5.00*	5.00*	
Operating: Basic Needs	EDN	82,499	83,718	166,217
Operating: Special Needs	EDN	2,833A	2,973A	5,806A
Kalaheo Elementary	EDN 105-126	16.00*	16.00*	
Operating: Basic Needs	EDN	288,372	290,803	579,175
Operating: Special Needs	EDN	4,520A	4,793A	9,313A
Kapaa Elementary	EDN 105-127	33.00*	33.00*	
Operating: Basic Needs	EDN	616,911	619,293	1,236,204
Operating: Special Needs	EDN	8,034A	8,391A	16,425A

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal		Fiscal		Total	
				Year	M O F	Year	M O F	Biennium	M O F
				1977-78		1978-79		1977-79	
	Kapaa High and Intermediate	EDN 105-128		46.00*		46.00*			
	Operating: Basic Needs		EDN	842,348		846,247		1,688,595	
	Operating: Special Needs		EDN	9,637A		9,910A		19,547A	
	Kauai High and Intermediate	EDN 105-129		53.00*		53.00*			
	Operating: Basic Needs		EDN	994,391		1,001,286		1,995,677	
	Operating: Special Needs		EDN	10,624A		11,261A		21,885A	
	Kaumakani Elementary	EDN 105-130		7.00*		7.00*			
	Operating: Basic Needs		EDN	122,736		123,421		246,157	
	Operating: Special Needs		EDN	2,798A		2,826A		5,624A	
	Kekaha Elementary	EDN 105-131		14.00*		14.00*			
	Operating: Basic Needs		EDN	220,646		220,991		441,637	
	Operating: Special Needs		EDN	4,345A		4,611A		8,956A	
	Kilauea Elementary	EDN 105-132		4.00*		4.00*			
	Operating: Basic Needs		EDN	71,320		71,720		143,040	
	Operating: Special Needs		EDN	2,539A		2,630A		5,169A	
	Koloa Elementary	EDN 105-133		22.00*		22.00*			
	Operating: Basic Needs		EDN	381,530		384,211		765,741	
	Operating: Special Needs		EDN	5,178A		5,479A		10,657A	
	Niihau Elementary	EDN 105-134		3.00*		3.00*			
	Operating: Basic Needs		EDN	46,079		46,222		92,301	
	Operating: Special Needs		EDN	2,420A		2,378A		4,798A	
	Waimea Elementary	EDN 105-135		21.00*		21.00*			
	Operating: Basic Needs		EDN	400,101		404,497		804,598	
	Operating: Special Needs		EDN	5,612A		5,941A		11,553A	

Waimea High and Intermediate	EDN 105-136		34.00*	34.00*	
Operating: Basic Needs		EDN	705,606	633,639	1,339,245
Operating: Special Needs		EDN	7,215A	7,614A	14,829A
Wilcox Elementary	EDN 105-137		30.00*	30.00*	
Operating: Basic Needs		EDN	594,774	600,352	1,195,126
Operating: Special Needs		EDN	7,201A	7,978A	15,179A
Leeward District Schools					
August Ahrens Elementary	EDN 105-138		61.00*	61.00*	
Operating: Basic Needs		EDN	1,126,557	1,129,220	2,255,777
Operating: Special Needs		EDN	12,885A	12,885A	25,770A
Barber's Point Elementary	EDN 105-139		38.00*	38.00*	
Operating: Basic Needs		EDN	621,174	623,435	1,244,609
Operating: Special Needs		EDN	9,049A	7,754A	16,803A
Campbell High	EDN 105-140		91.00*	91.00*	
Operating: Basic Needs		EDN	1,541,453	1,550,195	3,091,648
Operating: Special Needs		EDN	18,058A	19,290A	37,348A
Ewa Elementary	EDN 105-141		17.00*	17.00*	
Operating: Basic Needs		EDN	325,769	328,095	653,864
Operating: Special Needs		EDN	5,192A	5,045A	10,237A
Ewa Beach Elementary	EDN 105-142		28.00*	28.00*	
Operating: Basic Needs		EDN	491,223	493,976	985,199
Operating: Special Needs		EDN	6,921A	7,257A	14,178A
Highlands Intermediate	EDN 105-143		52.00*	52.00*	
Operating: Basic Needs		EDN	941,348	932,968	1,874,316
Operating: Special Needs		EDN	11,114A	11,730A	22,844A
Honowai Elementary	EDN 105-144		30.00*	30.00*	
Operating: Basic Needs		EDN	547,911	550,124	1,098,035
Operating: Special Needs		EDN	7,683A	7,677A	15,340A

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Item No.	Program	Program ID		Exp. Agy.	Fiscal Year 1977-78		Fiscal Year 1978-79		Total Biennium 1977-79	
		Org.	No.			M O F		M O F		M O F
	Ilima Intermediate	EDN	105-145		58.00*		58.00*			
	Operating: Basic Needs			EDN	892,011		895,503		1,787,514	
	Operating: Special Needs			EDN	11,653A		11,681A		23,334A	
	Iroquois Point Elementary	EDN	105-146		35.00*		35.00*			
	Operating: Basic Needs			EDN	598,494		599,640		1,198,134	
	Operating: Special Needs			EDN	8,468A		7,474A		15,942A	
	Kamiloa Elementary	EDN	105-147		26.00*		26.00*			
	Operating: Basic Needs			EDN	431,591		432,993		864,584	
	Operating: Special Needs			EDN	6,781A		6,690A		13,471A	
	Lehua Elementary	EDN	105-148		26.00*		26.00*			
	Operating: Basic Needs			EDN	491,653		492,811		984,464	
	Operating: Special Needs			EDN	6,753A		6,060A		12,813A	
	Maili Elementary	EDN	105-149		38.00*		38.00*			
	Operating: Basic Needs			EDN	617,432		622,127		1,239,559	
	Operating: Special Needs			EDN	8,776A		8,412A		17,188A	
	Makaha Elementary	EDN	105-150		32.00*		32.00*			
	Operating: Basic Needs			EDN	502,139		505,180		1,007,319	
	Operating: Special Needs			EDN	7,915A		7,649A		15,564A	
	Makakilo Elementary	EDN	105-151		20.00*		20.00*			
	Operating: Basic Needs			EDN	308,510		308,311		616,821	
	Operating: Special Needs			EDN	5,794A		5,857A		11,651A	
	Manana Elementary	EDN	105-152		27.00*		27.00*			
	Operating: Basic Needs			EDN	519,541		519,794		1,039,335	
	Operating: Special Needs			EDN	6,683A		6,746A		13,429A	



Mauka Lani Elementary	EDN 105-153		17.00*	17.00*	
Operating: Basic Needs		EDN	284,674	287,677	572,351
Operating: Special Needs		EDN	4,940A	4,730A	9,670A
Momilani Elementary	EDN 105-154		16.00*	16.00*	
Operating: Basic Needs		EDN	272,525	273,388	545,913
Operating: Special Needs		EDN	5,220A	5,059A	10,279A
Nanaikapono Elementary	EDN 105-155		28.00*	28.00*	
Operating: Basic Needs		EDN	477,184	477,903	955,087
Operating: Special Needs		EDN	8,412A	8,496A	16,908A
Nanakuli II Elementary	EDN 105-156		9.00*	9.00*	
Operating: Basic Needs		EDN	208,338	172,137	380,475
Operating: Special Needs		EDN	3,673A	3,911A	7,584A
Nanakuli High & Intermediate	EDN 105-157		54.00*	54.00*	
Operating: Basic Needs		EDN	851,979	853,825	1,705,804
Operating: Special Needs		EDN	10,939A	10,876A	21,815A
Palisades Elementary	EDN 105-158		35.00*	35.00*	
Operating: Basic Needs		EDN	664,084	664,030	1,328,114
Operating: Special Needs		EDN	8,328A	7,537A	15,865A
Pearl City Elementary	EDN 105-159		24.00*	24.00*	
Operating: Basic Needs		EDN	493,486	494,604	988,090
Operating: Special Needs		EDN	6,319A	5,885A	12,204A
Pearl City High	EDN 105-160		94.00*	94.00*	
Operating: Basic Needs		EDN	1,624,185	1,633,397	3,257,582
Operating: Special Needs		EDN	18,366A	19,535A	37,901A
Pearl City Highlands Elementary	EDN 105-161		26.00*	26.00*	
Operating: Basic Needs		EDN	525,462	528,680	1,054,142
Operating: Special Needs		EDN	6,760A	6,529A	13,289A

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
	Pohakea Elementary	EDN 105-162		31.00*	31.00*	
	Operating: Basic Needs		EDN	518,939	522,183	1,041,122
	Operating: Special Needs		EDN	7,754A	8,006A	15,760A
	Waianae Elementary	EDN 105-163		55.00*	55.00*	
	Operating: Basic Needs		EDN	917,799	924,826	1,842,625
	Operating: Special Needs		EDN	11,625A	12,493A	24,118A
	Waianae High	EDN 105-164		69.00*	69.00*	
	Operating: Basic Needs		EDN	1,073,006	1,081,906	2,154,912
	Operating: Special Needs		EDN	14,831A	15,923A	30,754A
	Waianae Intermediate	EDN 105-165		37.00*	37.00*	
	Operating: Basic Needs		EDN	578,341	579,851	1,158,192
	Operating: Special Needs		EDN	8,300A	8,867A	17,167A
	Waiau Elementary	EDN 105-166		20.00*	20.00*	
	Operating: Basic Needs		EDN	352,655	355,357	708,012
	Operating: Special Needs		EDN	5,360A	5,255A	10,615A
	Waimalu Elementary	EDN 105-167		25.00*	25.00*	
	Operating: Basic Needs		EDN	504,384	507,591	1,011,975
	Operating: Special Needs		EDN	6,137A	6,648A	12,785
	Waipahu Elementary	EDN 105-168		34.00*	34.00*	
	Operating: Basic Needs		EDN	602,616	604,694	1,207,310
	Operating: Special Needs		EDN	7,859A	8,524A	16,383A
	Waipahu High	EDN 105-169		83.00*	83.00*	
	Operating: Basic Needs		EDN	1,469,177	1,473,426	2,942,603
	Operating: Special Needs		EDN	16,896A	17,358A	34,254A

Waipahu Intermediate	EDN 105-170		37.00*	37.00*	
Operating: Basic Needs	EDN	653,545	656,338	1,309,883	
Operating: Special Needs	EDN	8,608A	9,469A	18,077A	
Maui District Schools					
Baldwin High	EDN 105-171		52.00*	52.00*	
Operating: Basic Needs	EDN	1,010,372	998,461	2,008,833	
Operating: Special Needs	EDN	10,757A	11,380A	22,137A	
Haiku Elementary	EDN 105-172		12.00*	12.00*	
Operating: Basic Needs	EDN	218,113	218,835	436,948	
Operating: Special Needs	EDN	4,044A	4,254A	8,298A	
Hana High-Elementary	EDN 105-173		17.00*	17.00*	
Operating: Basic Needs	EDN	267,513	263,119	530,632	
Operating: Special Needs	EDN	3,988A	4,009A	7,997A	
Iao Elementary	EDN 105-174		18.00*	18.00*	
Operating: Basic Needs	EDN	372,542	352,776	725,318	
Operating: Special Needs	EDN	5,150A	4,933A	10,083A	
Kahului Elementary	EDN 105-175		36.00*	36.00*	
Operating: Basic Needs	EDN	717,203	720,387	1,437,590	
Operating: Special Needs	EDN	8,601A	8,594A	17,195A	
Kamehameha III Elementary	EDN 105-176		38.00*	38.00*	
Operating: Basic Needs	EDN	654,822	658,195	1,313,017	
Operating: Special Needs	EDN	8,867A	7,957A	16,824A	
Kaunakakai Elementary	EDN 105-177		12.00*	12.00*	
Operating: Basic Needs	EDN	200,166	200,609	400,775	
Operating: Special Needs	EDN	4,177A	4,303A	8,480A	
Keanae Elementary	EDN 105-178		2.00*	2.00*	
Operating: Basic Needs	EDN	34,000	34,296	68,296	
Operating: Special Needs	EDN	2,217A	2,252A	4,469A	

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal		Fiscal		Total	
				Year	M O F	Year	M O F	Biennium	M O F
				1977-78		1978-79		1977-79	
	Kihei Elementary	EDN 105-179		23.00*		23.00*			
	Operating: Basic Needs		EDN	390,817		393,393		784,210	
	Operating: Special Needs		EDN	6,179A		6,837A		13,016A	
	Kilohana Elementary	EDN 105-180		5.00*		5.00*			
	Operating: Basic Needs		EDN	73,807		73,908		147,715	
	Operating: Special Needs		EDN	2,735A		2,770A		5,505A	
	Kualapuu Elementary	EDN 105-181		11.00*		11.00*			
	Operating: Basic Needs		EDN	198,980		200,076		399,056	
	Operating: Special Needs		EDN	3,883A		4,065A		7,948A	
	Kula Elementary	EDN 105-182		17.00*		17.00*			
	Operating: Basic Needs		EDN	315,424		316,148		631,572	
	Operating: Special Needs		EDN	4,674A		4,786A		9,460A	
	Lahaina Intermediate	EDN 105-182a							
	Operating: Basic Needs		EDN			23,909A		23,909A	
	Operating: Special Needs		EDN	A		3,680A		3,680A	
	Lahainaluna High	EDN 105-183		28.00*		28.00*			
	Operating: Basic Needs		EDN	490,681		489,919		980,600	
	Operating: Special Needs		EDN	6,641A		6,788A		13,429A	
	Lanai High-Elementary	EDN 105-184		26.00*		26.00*			
	Operating: Basic Needs		EDN	462,072		453,199		915,271	
	Operating: Special Needs		EDN	5,822A		5,710A		11,532A	

Lihikai Elementary	EDN 105-185		35.00*	35.00*	
Operating: Basic Needs		EDN	638,151	641,499	1,279,650
Operating: Special Needs		EDN	8,097A	8,300A	16,397A
Makawao Elementary	EDN 105-186		23.00*	23.00*	
Operating: Basic Needs		EDN	418,644	420,320	838,964
Operating: Special Needs		EDN	5,948A	6,585A	12,533A
Maui High	EDN 105-187		54.00*	54.00*	
Operating: Basic Needs		EDN	936,934	941,493	1,878,427
Operating: Special Needs		EDN	10,939A	11,695A	22,634A
Maunaloa Elementary	EDN 105-188		5.00*	5.00*	
Operating: Basic Needs		EDN	80,744	80,473	161,217
Operating: Special Needs		EDN	2,784A	2,721A	5,505A
Molokai High-Intermediate	EDN 105-189		30.00*	30.00*	
Operating: Basic Needs		EDN	446,366	447,560	893,926
Operating: Special Needs		EDN	6,704A	6,977A	13,681A
Paia Elementary	EDN 105-190		10.00*	10.00*	
Operating: Basic Needs		EDN	176,090	176,406	352,496
Operating: Special Needs		EDN	3,169A	3,358A	6,527A
Pukalani Elementary	EDN 105-191		13.00*	13.00*	
Operating: Basic Needs		EDN	216,374	217,593	433,967
Operating: Special Needs		EDN	4,422A	4,597A	9,019A
Puunene Elementary	EDN 105-192		6.00*	6.00*	
Operating: Basic Needs		EDN	109,496	110,311	219,807
Operating: Special Needs		EDN	2,504A	2,700A	5,204A
Waihee Elementary	EDN 105-193		11.00*	11.00*	
Operating: Basic Needs		EDN	205,691	206,639	412,330
Operating: Special Needs		EDN	3,946A	3,813A	7,759A

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Wailuku Elementary	EDN 105-194		32.00*		32.00*			
	Operating: Basic Needs		EDN	610,331		612,030		1,222,361	
	Operating: Special Needs		EDN	7,369A		7,495A		14,864A	
	Windward District Schools Ahuimanu Elementary	EDN 105-195		16.00*		16.00*			
	Operating: Basic Needs		EDN	296,620		300,353		596,973	
	Operating: Special Needs		EDN	4,597A		4,737A		9,334A	
	Aikahi Elementary	EDN 105-196		23.00*		23.00*			
	Operating: Basic Needs		EDN	455,014		457,492		912,506	
	Operating: Special Needs		EDN	5,696A		6,865A		12,561A	
	Castle High	EDN 105-197		97.00*		97.00*			
	Operating: Basic Needs		EDN	1,848,393		1,855,964		3,704,357	
	Operating: Special Needs		EDN	19,717A		20,522A		40,239A	
	Enchanted Lake Elementary	EDN 105-198		24.00*		24.00*			
	Operating: Basic Needs		EDN	441,559		443,394		884,953	
	Operating: Special Needs		EDN	6,235A		5,906A		12,141A	
	Hauula Elementary	EDN 105-199		18.00*		18.00*			
	Operating: Basic Needs		EDN	312,086		313,316		625,402	
	Operating: Special Needs		EDN	4,954A		5,423A		10,377A	
	Heeia Elementary	EDN 105-200		26.00*		26.00*			
	Operating: Basic Needs		EDN	486,853		489,127		975,980	
	Operating: Special Needs		EDN	6,354A		6,529A		12,883A	

Kaaawa Elementary	EDN 105-201		4.00*	4.00*	
Operating: Basic Needs		EDN	80.189	80.578	160.767
Operating: Special Needs		EDN	2,756A	2,952A	5,708A
Kaelepulu Elementary	EDN 105-202		7.00*	7.00*	
Operating: Basic Needs		EDN	128,786	129,985	258,771
Operating: Special Needs		EDN	3,540A	3,862A	7,402A
Kahaluu Elementary	EDN 105-203		19.00*	19.00*	
Operating: Basic Needs		EDN	366,812	367,919	734,731
Operating: Special Needs		EDN	5,164A	5,444A	10,608A
Kahuku High & Elementary & Sunset Beach Annex	EDN 105-204		58.00*	58.00*	
Operating: Basic Needs		EDN	1,021,452	1,027,892	2,049,344
Operating: Special Needs		EDN	12,297A	13,270A	25,567A
Kailua Elementary	EDN 105-205		25.00*	25.00*	
Operating: Basic Needs		EDN	482,733	486,112	968,845
Operating: Special Needs		EDN	5,913A	6,536A	12,449A
Kailua High	EDN 105-206		75.00*	75.00*	
Operating: Basic Needs		EDN	1,359,138	1,355,111	2,714,249
Operating: Special Needs		EDN	14,929A	15,132A	30,061A
Kailua Intermediate	EDN 105-207		53.00*	53.00*	
Operating: Basic Needs		EDN	966,663	969,289	1,935,952
Operating: Special Needs		EDN	10,071A	11,191A	21,262A
Kainalu Elementary	EDN 105-208		25.00*	25.00*	
Operating: Basic Needs		EDN	511,064	513,039	1,024,103
Operating: Special Needs		EDN	6,123A	7,040A	13,163A
Kalaheo High & Intermediate	EDN 105-209		64.00*	64.00*	
Operating: Basic Needs		EDN	1,108,998	1,092,804	2,201,802
Operating: Special Needs		EDN	12,717A	14,194A	26,911A

Item No.	Program	Program ID Org. No.	Exp. Agy.	APPROPRIATIONS		Total Biennium 1977-79	M O F
				Fiscal Year 1977-78	Fiscal Year 1978-79		
	Kaneohe Elementary	EDN 105-210		23.00*	23.00*		
	Operating: Basic Needs		EDN	469,732	471,429	941,161	
	Operating: Special Needs		EDN	5,626A	5,766A	11,392A	
	Kapunahala Elementary	EDN 105-211		21.00*	21.00*		
	Operating: Basic Needs		EDN	426,645	426,472	853,117	
	Operating: Special Needs		EDN	5,150A	5,262A	10,412A	
	Keolu Elementary	EDN 105-212		21.00*	21.00*		
	Operating: Basic Needs		EDN	423,005	424,153	847,158	
	Operating: Special Needs		EDN	5,500A	5,437A	10,937A	
	King Intermediate	EDN 105-213		72.00*	72.00*		
	Operating: Basic Needs		EDN	1,318,487	1,320,862	2,639,349	
	Operating: Special Needs		EDN	13,851A	13,354A	27,205A	
	Laie Elementary	EDN 105-214		25.00*	25.00*		
	Operating: Basic Needs		EDN	423,337	425,298	848,635	
	Operating: Special Needs		EDN	6,424A	6,767A	13,191A	
	Lanikai Elementary	EDN 105-215		8.00*	8.00*		
	Operating: Basic Needs		EDN	150,566	152,014	302,580	
	Operating: Special Needs		EDN	3,428A	3,365A	6,793A	
	Maunawili Elementary	EDN 105-216		21.00*	21.00*		
	Operating: Basic Needs		EDN	445,639	446,998	892,637	
	Operating: Special Needs		EDN	5,416A	5,640A	11,056A	



Mokapu Elementary	EDN 105-217		39.00*	39.00*	
Operating: Basic Needs	EDN	718,131	724,087	1,442,218	
Operating: Special Needs	EDN	9,210A	9,980A	19,190A	
Benjamin Parker Elementary	EDN 105-218		35.00*	35.00*	
Operating: Basic Needs	EDN	703,241	706,843	1,410,084	
Operating: Special Needs	EDN	7,768A	7,754A	15,522A	
Pope Elementary	EDN 105-219		19.00*	19.00*	
Operating: Basic Needs	EDN	324,488	325,507	649,995	
Operating: Special Needs	EDN	5,017A	4,919A	9,936A	
Puohala Elementary	EDN 105-220		20.00*	20.00*	
Operating: Basic Needs	EDN	406,460	407,164	813,624	
Operating: Special Needs	EDN	5,381A	5,451A	10,832A	
Sunset Beach Elementary	EDN 105-220a				
Operating: Basic Needs	EDN		22,000A	22,000A	
Operating: Special Needs	EDN	A	3,673A	3,673A	
Waiahole Elementary	EDN 105-221		9.00*	9.00*	
Operating: Basic Needs	EDN	155,724	156,165	311,889	
Operating: Special Needs	EDN	3,568A	3,414A	6,982A	
Waimanalo Elementary & Intermediate	EDN 105-222		33.00*	33.00*	
Operating: Basic Needs	EDN	598,543	599,254	1,197,797	
Operating: Special Needs	EDN	6,886A	7,383A	14,269A	
Regular Instructional Facilities	EDN 105-223				
Investment: Capital	AGS	17,527,000C	10,882,000C	28,409,000C	
2. Other Regular Instruction Programs	EDN 106		538.50*	538.50*	
Operating	EDN	11,163,523A	11,400,631A†	22,546,154A	
	EDN	10,850B	620,339B	631,189B	
	EDN	58,527N	63,779N	122,306N	

Provided, that EDN 106 is Comprised of  
EDN 106-1 through EDN 106-12.

†“\$11,400,631A” substituted for “\$11,382,631A” by the Governor, pursuant to section 11 of this Act.

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
	Environmental Education	EDN 106-1		2.50*	2.50*	
	Operating		EDN	224,205A	251,567A	475,772A
	Hawaii English Program	EDN 106-2		38.00*	38.00*	
	Operating		EDN	1,633,076A	1,667,866A	3,300,942A
	Artmobile	EDN 106-3		48,846A	52,859A	101,705A
	Operating		EDN	45,238A	53,608A	98,846A
	Artists-In-The-Schools	EDN 106-4		10.00*	10.00*	
	Operating		EDN	145,550A	145,550A	291,100A
	ROTC	EDN 106-5		208,837A	213,375A	422,212A
	Operating		EDN		230,000B	230,000B
	Driver Education	EDN 106-6		6.00*	6.00*	
	Operating		EDN	173,257A	172,140A	345,397A
	Lahainaluna Boarding Dept.	EDN 106-7		10,850B	11,772B	22,622B
	Intensive Language	EDN 106-8		16,275A	17,658A	33,933A
	Operating		EDN	350,631A	360,089A	710,720A
	Leeward Reading Program	EDN 106-9		58,527N	63,779N	122,306N
	Operating		EDN			
	Right to Read	EDN 106-10		482.00*	483.00*	
	Operating		EDN	8,317,608A	8,465,919A	16,783,527A
	Instructional Resources	EDN 106-11			378,567B	378,567B
	Augmentation/3 on 2					
	Operating		EDN			
	Summer School Program	EDN 106-12				
	Operating		EDN			

3.	Exceptional Child Program	EDN 107		690.00*	856.00*	
	Operating		EDN	11,397,314A	14,152,725A	25,550,039A
			EDN	B	44,144B	44,144B
			EDN	502,795N	502,795N	1,005,590N
4.	Compensatory Education	EDN 108		108.00*	108.00*	
	Operating		EDN	3,261,213A	4,024,375A	7,285,588A
			EDN	9,529,857N	9,920,437N	19,450,294N
5.	Instructional Administration and Support School Administration	EDN 203		822.00*	798.00*	
	Operating		EDN	14,628,582A	14,121,714A	28,750,296A
	Investment: Capital		AGS	C	1,005,000C	1,005,000C
6.	Instructional Media	EDN 204		293.50*	293.50*	
	Operating		EDN	6,622,712A	6,712,301A	13,335,013A
			EDN	588,440N	626,152N	1,214,592N
	Investment: Capital		AGS	1,462,000C	1,508,000C	2,970,000C
7.	Instructional Development	EDN 205		74.00*	74.00*	
	Operating		EDN	2,555,198A	2,606,367A	5,161,565A
			EDN	1,130,844N	1,137,892N	2,268,736N
8.	Counseling	EDN 206		258.50*	261.00*	
	Operating		EDN	4,670,923A	4,854,098A	9,525,021A
9.	Student Activities	EDN 207				
	Operating		EDN	636,658A	660,050A	1,296,708A
	Investment: Capital		AGS	43,000C	582,000C	625,000C
10.	Psychological & School Social Work Servi	EDN 208		133.00*	133.00*	
	Operating		EDN	2,703,598A	2,717,981A	5,421,579A
	Institutional Administration and Support					

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78		Fiscal Year 1978-79		Total Biennium 1977-79	
				M O F		M O F		M O F	
11.	State Administration	EDN 303			252.50*		202.00*		
	Operating		EDN		5,200,747A		5,502,771A		10,703,518A
			EDN		592,731N		647,016N		1,239,747N
12.	District Administration	EDN 304							
	Operating		EDN		182.00*		182.00*		
	Investment: Capital		AGS		7,925,665A		7,994,580A		15,920,245A
					300,000C		C		300,000C
13.	School Food Services	EDN 305							
	Operating		EDN		198.50*		198.50*		
					7,200,378A		7,020,071A		14,220,449A
			EDN		712.50*		712.50*		
			EDN		13,604,425B		14,977,004B		28,581,429B
	Investment: Capital		EDN		84,302N		83,884N		168,186N
			AGS		1,073,000C		863,000C		1,936,000C
14.	Safety and Security Services	EDN 306							
	Operating		EDN		533,470A		567,677A		1,101,147A
15.	Physical Plant Operations & Maintenance—	EDN 307							
	Operating		EDN		976.60*		980.10*		
	Investment: Capital		AGS		14,431,161A		15,207,472A		29,638,633A
					42,000C		304,000C		346,000C
16.	Physical Plant Operations & Maintenance—	AGS 807							
	Operating		AGS		218.00*		218.00*		
					8,464,377A		8,780,571A		17,244,948A
17.	Student Transportation	AGS 808							
	Operating		AGS		6.00*		6.00*		
					8,020,642A		8,634,309A		16,654,951A

18.	Teacher Housing	SOC 807				
	Operating		SOC	5.50* 122,414B	5.50* 127,504B	249,918B
19.	Public Service Adult Education	EDN 406				
	Operating		EDN	22.00* 1,453,706A	22.00* 1,462,662A	2,916,368A
				1.00* 816,256B	1.00* 881,599B	1,697,855B
			EDN	1.00* 362,357N	1.00* 368,359N	730,716N
20.	Public Libraries	EDN 407				
	Operating		EDN	425.45* 6,881,388A	429.80* 7,126,633A	14,008,021A
			EDN	394,388N	394,388N	788,776N
	Investment: Capital		AGS	C	500,000C	500,000C
21.	Higher Education University of Hawaii, Manoa Instruction—UOH, Manoa	UOH 101				
	Operating		UOH	1,514.04* 36,154,951A	1,518.04* 37,191,199A	73,346,150A
				21.00* 3,352,128B	21.00* 3,447,987B	6,800,115B
			UOH	7.15* 721,276N	7.15* 721,276N	1,442,552N
	Investment: Capital		AGS	1,272,000C	23,337,000C	24,609,000C
22.	Organized Research—UOH, Manoa	UOH 102				
	Operating		UOH	415.57* 10,735,165A	426.57* 12,391,465A	23,126,630A
			UOH	56,500B 34.42* 963,620N	65,075B 34.42* 1,032,505N	121,575B 1,996,125N
			UOH	165,000W	170,000W	335,000W
	Investment: Capital		AGS	1,585,000C	2,762,000C	4,347,000C

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
23.	Public Service—UOH, Manoa	UOH 103		90.51*		89.51*			
	Operating		UOH	2,278,206A		2,430,290A		4,708,496A	
				8.00*		8.00*			
			UOH	993,675B		1,073,718B		2,067,393B	
				43.64*		43.64*			
			UOH	939,288N		978,419N		1,917,707N	
			UOH	59,000W		65,000W		124,000W	
24.	Academic Support—UOH, Manoa	UOH 104		394.77*		394.77*			
	Operating		UOH	8,533,206A		9,175,361A		17,708,567A	
				10.00*		10.00*			
			UOH	541,510B		562,819B		1,104,329B	
				6.00*		6.00*			
	Investment: Capital		UOH	545,356W		572,385W		1,117,741W	
			AGS	33,000C		300,000C		333,000C	
25.	Student Services—UOH, Manoa	UOH 105		103.75*		104.75*			
	Operating		UOH	2,254,379A		2,827,443A		5,081,822A	
			UOH	192,410B		199,296B		391,706B	
			UOH	621,485N		621,485N		1,242,970N	
				135.00*		140.00*			
			UOH	12,356,422W		12,940,805W		25,297,227W	
26.	Institutional Support -UOH, Manoa	UOH 106		378.50*		391.50*			
	Operating		UOH	9,075,598A		10,097,663A		19,173,261A	
				12.00*		12.00*			
			UOH	457,899B		469,656B		927,555B	
				6.00*		6.00*			
	Investment: Capital		UOH	1,475,559W		1,519,593W		2,995,152W	
			AGS	1,450,000C		1,432,000C		2,882,000C	

27.	University of Hawaii, Hilo Instruction—UOH, Hilo	UOH 211		185.50*	185.50*	
	Operating		UOH	3,952,346A	3,905,372A	7,857,718A
			UOH	206,000B	390,500B	596,500B
			UOH	160,000N	160,000N	320,000N
			UOH	130,000W	130,000W	260,000W
	Investment: Capital		AGS	300,000C	650,000C	950,000C
28.	Public Service—UOH, Hilo	UOH 213				
	Operating		UOH	30,150A	30,310A	60,460A
			UOH	40,000B	127,800B	167,800B
29.	Academic Support —UOH, Hilo	UOH 214				
	Operating		UOH	42.00*	41.00*	
			UOH	961,801A	1,073,470A	2,035,271A
				7.00*	7.00*	
			UOH	95,000B	127,144B	222,144B
	Investment: Capital		AGS	C	2,943,000C	2,943,000C
30.	Student Services —UOH, Hilo	UOH 215				
	Operating		UOH	20.00*	21.00*	
			UOH	546,151A	589,525A	1,135,676A
			UOH	94,000N	94,000N	188,000N
				6.00*	6.00*	
			UOH	183,813W	199,974W	383,787W
31.	Institutional Support—UOH, Hilo	UOH 216				
	Operating		UOH	35.00*	35.00*	
			UOH	779,083A	866,529A	1,645,612A
			UOH	8,500B	9,000B	17,500B
	Investment: Capital		AGS	250,000C	150,000C	400,000C
32.	Honolulu Community College Instruction—Honolulu Community College	UOH 301				
	Operating		UOH	124.00*	123.00*	
			UOH	2,776,914A	2,836,729A	5,613,643A
			UOH	142,000B	151,000B	293,000B
			UOH	100,000N	100,000N	200,000N
	Investment: Capital		AGS	C	406,000C	406,000C

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
33.	Public Service—Honolulu Community Colle	UOH 302		9.00*		9.00*			
	Operating		UOH	538,453A		440,845A		979,298A	
34.	Academic Support—Honolulu Community Col	UOH 303		26.00*		27.00*			
	Operating		UOH	422,194A		488,436A		910,630A	
35.	Student Services—Honolulu Community Col	UOH 304		19.00*		19.00*			
	Operating		UOH	350,481A		354,158A		704,639A	
			UOH	111,000N		111,000N		222,000N	
			UOH	4,000X		4,000X		8,000X	
36.	Institutional Support—Honolulu CC	UOH 305		33.00*		36.00*			
	Operating		UOH	811,457A		940,360A		1,751,825A	
			UOH	27,000B		30,000B		57,000B	
			UOH	53,000W		59,000W		112,000W	
	Investment: Capital		AGS	425,000C		C		425,000C	
37.	Kapiolani Community College Instruction—Kapiolani Community College	UOH 311		106.00*		106.00*			
	Operating		UOH	2,575,616A		2,708,305A		5,283,921A	
			UOH	75,000N		75,000N		150,000N	
				3.00*		3.00*			
			UOH	172,283W		179,921W		352,204W	
38.	Public Service—Kapiolani Community Colle	UOH 312		1.00*		1.00*			
	Operating		UOH	25,187A		26,584A		51,771A	



39.	Academic Support—Kapiolani Community Col	UOH 313		15.00*	16.00*	
	Operating		UOH	363,122A	379,829A	742,951A
40.	Student Services—Kapiolani Community Col	UOH 314		16.00*	16.00*	
	Operating		UOH	310,453A	340,300A	650,753A
			UOH	137,000N	151,000N	288,000N
41.	Institutional Support—Kapiolani CC	UOH 315		25.00*	27.00*	
	Operating		UOH	687,654A	698,920A	1,386,574A
	Investment: Capital		UOH	33,669W	34,932W	68,601W
			AGS	C	637,000C	637,000C
42.	Leeward Community College Instruction—Leeward Community College	UOH 321		144.00*	144.00*	
	Operating		UOH	3,134,581A	3,244,421A	6,379,002A
			UOH	23,261B	24,451B	47,712B
			UOH	40,000N	40,000N	80,000N
				2.00*	2.00*	
	Investment: Capital		UOH	121,315W	121,610W	242,925W
			AGS	520,000C	100,000C	620,000C
43.	Public Service—Leeward Community College	UOH 322		5.00*	8.00*	
	Operating		UOH	296,424A	284,902A	581,326A
			UOH	12,598B	12,588B	25,186B
44.	Academic Support—Leeward Community Colle	UOH 323		25.00*	25.00*	
	Operating		UOH	462,328A	480,240A	942,568A
45.	Student Services—Leeward Community Colle	UOH 324		29.00*	29.00*	
	Operating		UOH	539,283A	574,064A	1,113,347A
			UOH	100,000N	100,000N	200,000N
			UOH	3,296W	3,474W	6,770W

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Item No.	Program	Program ID Org.	No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
46.	Institutional Support—Leeward CC	UOH	325		47.50*		49.50*			
	Operating			UOH	954,870A		995,451A		1,950.321A	
47.	Windward Community College Instruction—Windward Community College	UOH	331		41.00*		41.00*			
	Operating			UOH	900,065A		831,415A		1,731.480A	
48.	Public Service—Windward Community Colleg	UOH	332		1.00*		1.00*			
	Operating			UOH	23,711A		18,157A		41.868A	
49.	Academic Support—Windward Community Coll	UOH	333		10.00*		10.00*			
	Operating			UOH	242,412A		252,628A		495.040A	
50.	Student Services—Windward Community Coll	UOH	334		6.00*		6.00*			
	Operating			UOH	124,040A		133,371A		257.411A	
				UOH	69,000N		69,000N		138.000N	
51.	Institutional Support—Windward CC	UOH	335		11.50*		11.50*			
	Operating			UOH	250,451A		261,624A		512.075A	
				UOH	1.00*		1.00*			
				UOH	32,000B		35,000B		67.000B	

52.	Maui Community College Instruction—Maui Community College	UOH 501		61.50*	63.50*	
	Operating		UOH	1,319,435A	1,368,712A	2,688,147A
			UOH	50,000N	50,000N	100,000N
			UOH	2,000W	2,000W	4,000W
53.	Public Service—Maui Community College	UOH 502		.50*	.50*	
	Operating		UOH	44,491A	44,190A	88,681A
			UOH	6,000B	6,000B	12,000B
54.	Academic Support—Maui Community College	UOH 503		11.00*	11.00*	
	Operating		UOH	233,802A	249,298A	483,100A
55.	Student Services—Maui Community College	UOH 504		8.50*	8.50*	
	Operating		UOH	172,631A	199,062A	371,693A
			UOH	.50*	.50*	
			UOH	18,411B	19,255B	37,666B
			UOH	61,000N	98,000N	159,000N
	Investment: Capital		AGS	750,000C	C	750,000C
56.	Institutional Support—Maui Community Col	UOH 505		18.00*	18.00*	
	Operating		UOH	414,044A	430,439A	844,483A
			UOH	3,000B	3,000B	6,000B
			UOH	3.00*	3.00*	
			UOH	73,658W	77,420W	151,078W
	Investment: Capital		AGS	350,000C	100,000C	450,000C
57.	Kauai Community College Instruction—Kauai Community College	UOH 601		46.00*	46.00*	
	Operating		UOH	941,572A	932,116A	1,873,688A
			UOH	7,000B	7,000B	14,000B
			UOH	30,000N	30,000N	60,000N
	Investment: Capital		AGS	400,000C	C	400,000C

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Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
58.	Public Service—Kauai Community College	UOH 602		.50*		.50*			
	Operating		UOH	16,340A		13,658A		29,998A	
59.	Academic Support—Kauai Community College	UOH 603		10.50*		10.50*			
	Operating		UOH	243,209A		263,528A		506,737A	
60.	Student Services—Kauai Community College	UOH 604		8.00*		8.00*			
	Operating		UOH	156,411A		162,954A		319,365A	
			UOH	36,000N		36,000N		72,000N	
61.	Institutional Support—Kauai CC	UOH 605		24.50*		26.50*			
	Operating		UOH	539,005A		788,034A		1,327,039A	
			UOH	4,000B		4,000B		8,000B	
	Investment: Capital		AGS	500,000C		C		500,000C	
62.	West Oahu College Instruction—West Oahu College	UOH 701		7.00*		9.00*			
	Operating		UOH	220,555A		188,045A		408,600A	
63.	Academic Support—West Oahu College	UOH 704		3.00*		3.50*			
	Operating		UOH	76,343A		98,324A		174,667A	
64.	Student Services—West Oahu College	UOH 705		1.00*		2.00*			
	Operating		UOH	42,782A		55,061A		97,843A	

65.	Institutional Support—West Oahu College	UOH 706				
	Operating		UOH	4.00* 187,345A	4.00* 197,967A	385,312A
66.	Higher Education State-Wide Support Academic Support—UOH, System-Wide Support	UOH 901				
	Operating		UOH	79.00* 1,771,505A	34.50* 2,143,157A	3,914,662A
			UOH	550,000T	600,000T	1,150,000T
67.	Student Services—UOH, System-Wide Support	UOH 902				
	Operating		UOH	4.00* 587,554A	4.00* 386,159A	973,713A
68.	Institutional Sppt—UOH, System-Wide Sppt	UOH 903				
	Operating		UOH	176.75* 3,738,574A	176.75* 3,995,080A	7,733,654A
69.	Vocational Education, Statewide Coordinat	UOH 904				
	Operating		UOH	7.00* 103,991A	7.00* 108,276A	212,267A
			UOH	6.00* 310,012N	6.00* 320,096N	630,108N
70.	Statewide Plan & Coord for Post-Secondar Operating	UOH 905	UOH	A	263,500A	263,500A
71.	Community College Systemwide Support	UOH 906				
	Operating		UOH	28.75* 748,488A	28.75* 848,252A	1,596,740A
			UOH	148.50* 3,253,437N	148.50* 3,425,188N	6,678,625N
			UOH	75,000W	75,000W	150,000W
72.	Western Interstate Commission for Higher Operating	GOV 807	GOV	870,200A	866,000A	1,736,200A

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				Year	M O F	Year	M O F	Biennium	M O F
				1977-78		1978-79		1977-79	
<b>H. CULTURE AND RECREATION</b>									
<b>CULTURAL ACTIVITIES</b>									
Collections, Historical Sites and Studies									
1.	Cultural History	BUF 802		2.00*		2.00*			
	Operating		BUF	187,471A		479,804A		667,275A	
			BUF	50,000N		50,000N		100,000N	
			BUF	20,000X		20,000X		40,000X	
2.	Hawaii Public Broadcasting	REG 701		29.00*		36.00*			
	Operating		REG	798,569A		922,959A		1,721,528A	
			REG	504,010W		490,890W		994,900W	
	Investment: Capital		AGS	303,000C		250,000C		553,000C	
			AGS	534,000N		N		534,000N	
3.	LNR—Historical & Archaeological Places	LNR 801		20.10*		21.10*			
	Operating		LNR	439,846A		454,005A		893,851A	
	Investment: Capital		LNR	2,155,000C		4,180,000C		6,335,000C	
4.	DEF—Historical Places	DEF 808							
	Operating		DEF	5,860A		5,860A		11,720A	
5.	Aquaria	UOH 881		11.00*		11.00*			
	Operating		UOH	179,966A		189,021A		368,987A	
6.	Other Natural Features	LNR 803		9.15*		9.15*			
	Operating		LNR	150,996A		128,681A		279,677A	
	Investment: Capital		LNR	160,000C		360,000C		520,000C	

7.	Cultural and Artistic Events Performing & Visual Arts Events	BUF 881		7.00*	7.00*	
	Operating		BUF	434,195A	644,768A	1,078,963A
			BUF	321,400N	322,400N	643,800N
			BUF	68,000R	70,000R	138,000R
8.	Ethnic Group Presentations Operating	AGS 818		37,750A	37,750A	75,500A
			AGS	1,000B	1,000B	2,000B
RECREATIONAL ACTIVITIES						
9.	Outdoor Activities Inland-Based Activities	LNR 804		96.45*	100.45*	
	Operating		LNR	1,546,233A	1,536,819A	3,083,052A
			LNR	104,000B	104,000B	208,000B
			LNR	152,188N	154,074N	306,262N
	Investment: Capital		LNR	1,757,000C	2,964,000C	4,721,000C
10.	DOT—Ocean-based Activities	TRN 801		38.50*	38.50*	
	Operating		TRN	1,843,491B	1,871,361B	3,714,852B
	Investment: Capital		TRN	850,000C	2,308,000C	3,158,000C
			TRN	150,000D	1,656,000D	1,806,000D
11.	LNR—Ocean-based Activities	LNR 805		56.10*	65.10*	
	Operating		LNR	816,935A	998,090A	1,815,025A
			LNR	55,000N	56,000N	111,000N
	Investment: Capital		LNR	3,025,000C	8,450,000C	11,475,000C
			LNR	230,000N	N	230,000N
12.	Spectator Events and Shows Operating	BUF 889		437,435A	407,391A	844,826A
			BUF	34.00*	34.00*	
			BUF	889,740B	964,302B	1,854,042B
	Investment: Capital		AGS	650,000C	611,000C	1,261,000C

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OVERALL PROGRAM SUPPORT FOR CULTURE & RE										
13.	PED—Planning & Analysis for Culture & Rec	PED	808		3.00*					
	Operating			PED	49,357A		A		49,357A	
				PED	3,000,000N		N		3,000,000N	
14.	LNR—General Admin for Culture and Recrea	LNR	809		6.95*		10.95*			
	Operating			LNR	107,674A		181,264A		288,938A	
				LNR	N		3,021,812N		3,021,812N	
	Investment: Capital			LNR	150,000C		100,000C		250,000C	
I. PUBLIC SAFETY										
SAFETY FROM CRIMINAL ACTIONS										
1.	Intake Service Centers	GOV	894		20.52*		26.64*			
	Operating			GOV	208,057A		517,713A		725,770A	
				GOV	8.98*		7.36*			
				GOV	392,434N		188,240N		580,674N	
	Confinement									
2.	Juvenile Correctional Facilities	SOC	401		69.00*		77.00*			
	Operating			SOC	1,527,354A		1,739,978A		3,267,332A	
3.	Adult Honor Camps	SOC	403		36.00*		36.00*			
	Operating			SOC	748,447A		798,312A		1,546,759A	
4.	In-Community Facilities	SOC	404		15.00*		15.00*			
	Operating			SOC	279,058A		366,927A		645,985A	



5.	Hawaii Community Corrections Center	SOC 405		29.00*	29.00*	
	Operating		SOC	384,668A	456,892A	841,560A
6.	Maui Community Corrections Center	SOC 406		22.00*	22.00*	
	Operating		SOC	400,637A	428,369A	829,006A
7.	Kauai Community Corrections Center	SOC 408		18.50*	18.50*	
	Operating		SOC	270,390A	288,554A	558,944A
8.	Social Rehabilitation of Confined Adults	UOH 859		7.00*	7.00*	
	Operating		UOH	154,768A	153,507A	308,275A
			UOH	34,027N	34,027N	68,054N
			UOH	2,000W	2,000W	4,000W
9.	Interim Oahu Correctional Facilities	SOC 420		302.80*	356.80*	
	Operating		SOC	5,268,870A	6,859,859A	12,128,729A
			SOC	50,000B	25,000B	75,000B
10.	Parole Supervision and Counseling Adult Parole Determinations	SOC 411		2.00*	2.00*	
	Operating		SOC	64,046A	64,046A	128,092A
11.	Adult Parole Supervision and Counseling	SOC 413		19.50*	19.50*	
	Operating		SOC	284,691A	293,571A	578,262A
12.	Criminal Injuries Compensation	SOC -414		3.00*	3.00*	
	Operating		SOC	56,944A	61,290A	118,234A
13.	General Support—Criminal*Action Criminal Data and Crime Statistics	ATG 191		9.00*	9.00*	
	Operating		ATG	127,456A	136,578A	264,034A

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				1977-78	M O F	1978-79	M O F	1977-79	M O F
14.	Criminal Justice Planng & PRG Implemetat	GOV 893							
	Operating		GOV	4.16*		4.16*			
				285,675A		298,512A		584,187A	
				7.84*		7.84*			
			GOV	3,304,557N		2,840,557N		6,145,114N	
15.	General ADM- Confinement & Parole	SOC 493							
	Operating		SOC	14.00*		14.00*			
				335,406A		316,001A		651,407A	
SAFETY FROM PHYSICAL DISASTERS									
16.	Prevention of Natural Disasters	LNR 810							
	Operating		LNR	3.00*		3.00*			
				82,049A		85,080A		167,129A	
17.	Amelioration of Physical Disasters	DEF 110							
	Operating		DEF	103.00*		103.00*			
				1,643,114A		1,745,244A		3,388,358A	
				22.00*		22.00*			
			DEF	684,373N		631,150N		1,315,523N	
	Investment: Capital		AGS	439,000C		142,000C		581,000C	
			AGS	454,000N		288,000N		742,000N	
18.	Fire Marshall Services	REG 891							
	Operating		REG	2.00*		2.00*			
				38,326A		38,365A		76,691A	

**J. INDIVIDUAL RIGHTS  
PROTECTION OF THE CONSUMER**

1.	Testing & Certification of Consumer Good	AGR 810				
	Operating		AGR	28.00* 444,339A 28.00* 539,418N	28.00* 451,446A 28.00* 547,833N	895,785A 1,087,251N
2.	Regulation of Services Communication, Utilities & Transportatn	REG 103				
	Operating		REG	46.00* 721,480A 5.00* 165,923X	46.00* 741,176A 5.00* 159,605X	1,462,656A 325,528X
3.	Banking Services	REG 104				
	Operating		REG	24.00* 439,524A	24.00* 448,935A	888,459A
4.	Insurance Services	REG 106				
	Operating		REG	30.00* 527,346A	30.00* 528,557A	1,055,903A
5.	Professional, Vocational & Personal Svcs	REG 105				
	Operating		REG	49.00* 970,733A 1.00* 41,196X	50.00* 987,311A 1.00* 42,856X	1,958,044A 84,052X
6.	Enforcement of Fair Business Practices Business Registration	REG 111				
	Operating		REG	12.00* 159,257A	12.00* 162,986A	322,243A
7.	Weights & Measures	AGR 812				
	Operating		AGR AGR	20.00* 310,207A 112,492W	20.00* 313,720A 91,292W	623,927A 203,784W

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8.	Offc of Consumer Prot—Adv & Terms of S	GOV 110		27.00*	28.00*	
	Operating		GOV	486,334A	507,852A	994,186A
9.	General Support—Protection of the Consum	REG 191		29.00*	29.00*	
	Operating		REG	582,067A	590,620A	1,172,687A
	LEGAL & JUDICIAL PROTECTION OF RIGHTS					
10.	Legal Assistance in Criminal Actions	GOV 821		57.00*	57.00*	
	Operating		GOV	1,319,865A	1,327,398A	2,647,263A
11.	Conveyances and Recordings	LNR 111		43.00*	43.00*	
	Operating		LNR	611,772A	617,513A	1,229,285A
12.	Commission on the Status of Women	BUF 888		2.00*	2.00*	
	Operating		BUF	31,233A	249,444A	280,677A
	<b>K. GOVERNMENT-WIDE SUPPORT</b>					
	EXEC DIRECTN, COORD, & POLICY DEVELOPMEN					
1.	Office of the Governor	GOV 100		41.00*	41.00*	
	Operating		GOV	1,178,363A	2,362,781A	3,541,144A
	Investment: Capital		GOV	3,000,000C	3,000,000C	6,000,000C
2.	Office of the Lieutenant Governor	LTG 100		23.00*	23.00*	
	Operating		LTG	714,994A	1,667,471A	2,382,465A

3.	Policy Development and Coordination PRG Planning, Analysis, Budgeting & Coord	BUF 101		66.00*	66.00*	
	Operating		BUF	547,619A	1,609,549A	3,157,168A
			BUF	21,000B	32,000B	53,000B
4.	Land Use, Statewide Plan and Coordination	PED 103		37.00*	46.00*	
	Operating		PED	1,294,573A	1,386,790A	2,681,363A
				2.00*	2.00*	
	Investment: Capital		PED	2,000,000N	946,000N	2,946,000N
			PED	60,000C	1,883,000C	1,943,000C
			PED	60,000N	N	60,000N
5.	OTH Policy Development & Coordination—	GOV 102		16.00*	16.00*	
	Operating		GOV	652,821A	861,260A	1,514,081A
FISCAL MANAGEMENT						
Revenue Collection						
6.	Property Tax Assessment	TAX 101		115.67*	115.67*	
	Operating		TAX	1,755,328A	1,812,962A	3,568,290A
7.	Income Assessment and Audit	TAX 102		157.67*	159.67*	
	Operating		TAX	2,405,875A	2,455,136A	4,861,011A
8.	Tax Collection	TAX 103		78.66*	78.66*	
	Operating		TAX	1,128,105A	1,123,143A	2,251,248A
9.	Supporting Services—Revenue Collection	TAX 107		78.00*	78.00*	
	Operating		TAX	2,285,063A	2,070,133A	4,355,196A

## APPROPRIATIONS

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
10.	Fiscal Procedures and Control Acct System Development & Maintenance	AGS 101		8.00*		8.00*			
	Operating		AGS	160,174A		164,722A		324,896A	
11.	Expenditure Examination	AGS 102		21.00*		21.00*			
	Operating		AGS	380,440A		392,581A		773,021A	
12.	Recording and Reporting	AGS 103		12.00*		12.00*			
	Operating		AGS	221,591A		438,781A		660,372A	
13.	Internal Post Audit	AGS 104		18.00*		18.00*			
	Operating		AGS	547,553A		406,671A		954,224A	
14.	Cash and Debt Management	BUF 110		16.00*		16.00*			
	Operating		BUF	118,444,501A		139,402,224A		257,846,725A	
			BUF	567,353B		410,135B		977,488B	
			BUF	27,500U		27,500U		55,000U	
15.	GENERAL SERVICES Legal Services	ATG 100		73.00*		73.00*			
	Operating		ATG	2,033,356A		2,060,191A		4,093,547A	
			ATG	20.00*		20.00*			
			ATG	437,742U		468,236U		905,978U	
16.	Electronic Data Processing Services	BUF 131		200.20*		205.20*			
	Operating		BUF	4,026,216A		4,366,753A		8,392,969A	
			BUF	16.80*		16.80*			
			BUF	1,060,000U		1,065,000U		2,125,000U	

17.	Records Management	AGS	111		23.00*	23.00*	
	Operating			AGS	278,561A	292,405A	570,966A
18.	Personnel Services						
	Work Force Attr, Select, Class, & Effect	PER	102		70.00*	70.00*	
	Operating			PER	1,310,631A	1,351,279A	2,661,910A
19.	Supporting Services—Personnel Services	PER	191		11.00*	14.00*	
	Operating			PER	315,840A	448,617A	764,457A
20.	Employee Fringe Benefit Administration						
	Retirement	BUF	141		21.95*	21.95*	
	Operating			BUF	66,586,317A	65,849,035A	132,435,352A
				BUF	8.05*	8.05*	
				BUF	196,872S	192,305S	389,177S
21.	Group Life Insurance, Med, Hosp & Dntl Bn	BUF	142		10.00*	10.00*	
	Operating			BUF	12,038,067A	12,984,277A	25,022,344A
				BUF	6,149,390S	6,909,870S	13,059,260S
22.	Property Management						
	Public Lands Management	LNR	101		34.00*	34.00*	
	Operating			LNR	534,359A	543,178A	1,077,537A
	Investment: Capital			LNR	70,000C	2,500,000C	2,570,000C
				LNR	1,560,000D	D	1,560,000D
23.	Insurance Management	AGS	203				
	Operating			AGS	1,575,497A	1,842,530A	3,418,027A
				AGS	381,900U	423,308U	805,208U
24.	Land Survey	AGS	211				
	Operating			AGS	30.00*	30.00*	
				AGS	503,710A	510,454A	1,014,164A

Item No.	Program	Program ID Org. No.	Exp. Agy.	Fiscal		Fiscal		Total	
				Year	M O F	Year	M O F	Biennium	M O F
				1977-78		1978-79		1977-79	
25.	Facilities Construction and Maintenance Construction	AGS 221		20.00*		20.00*			
	Operating		AGS	367,274A		370,874A		738,148A	
	Investment: Capital		AGS	9,195,000C		10,234,000C		19,429,000C	
			AGS	2,464,000D		3,022,000D		5,486,000D	
26.	Custodial Services	AGS 231		141.50*		143.50*			
	Operating		AGS	2,992,381A		3,283,353A		6,275,734A	
			AGS	194,000U		204,000U		398,000U	
27.	Grounds Maintenance	AGS 232		36.00*		37.00*			
	Operating		AGS	332,547A		491,968A		824,515A	
28.	Building Repairs and Alterations	AGS 233		23.00*		23.00*			
	Operating		AGS	613,751A		634,365A		1,248,116A	
29.	Purchasing and Supplies Central Purchasing	AGS 240		14.00*		14.00*			
	Operating		AGS	192,423A		197,588A		390,011A	
			AGS	17,100W		18,100W		35,200W	
30.	Surplus Property Management	AGS 244		7.00*		7.00*			
	Operating		AGS	133,657W		135,400W		269,057W	
31.	Motor Pool	AGS 251		8.50*		8.50*			
	Operating		AGS	278,341W		289,931W		568,272W	



32.	Parking Control	AGS	252		12.50*	12.50*	
	Operating			AGS	319,537W	326,180W	645,717W
33.	Communication	AGS	263		14.00*	14.00*	
	Operating			AGS	969,397A	989,609A	1,959,006A
				AGS	532,800U	551,400U	1,084,200U
34.	Capitol Building Security	ATG	801		36.00*	36.00*	
	Operating			ATG	488,336A	497,741A	986,077A
35.	Other State Buildings Security	AGS	301		10.00*	10.00*	
	Operating			AGS	95,935A	97,447A	193,382A
36.	Genrl Adm Svcs—Accounting & General Sv	AGS	901		38.00*	38.00*	
	Operating			AGS	721,732A	668,860A	1,390,592A
37.	Subsidies to Counties Grants in Aid to Counties Operating	SUB	101				
				BUF	25,563,640A	20,447,551A	46,011,191A
38.	County Capital Improvement Projects City & County of Honolulu—CIP Investment: Capital	SUB	201				
				CCH	C	2,500,000C	2,500,000C
				CCH	S	500,000S	500,000S

SECTION 4. Part III, Act 10, Special Session Laws of Hawaii 1977, is amended:

(1) By amending Section 4 to read:

"SECTION 4. Provided, that of the general fund appropriation for the Tourism Program (PED 113), the expending agency shall expend \$2,140,240 for fiscal year 1977-78 and \$2,133,240 for fiscal year 1978-79 for the purpose of tourism promotion by contract or contracts. Provided further, that of the amounts appropriated for tourism promotion by contract or contracts, \$200,000 in fiscal year 1977-78 and \$100,000 in fiscal year 1978-79 shall be expended to address the problem of low hotel occupancy rates experienced by the neighbor island counties from a research and promotional standpoint, including promotion of the neighbor islands as mass meetings destination areas. Funds allocated for the purpose of addressing the low occupancy problem shall not be used for the employment of additional permanent personnel positions."

(2) By adding a new section to read:

"SECTION 6A. Provided, that of the general fund appropriation for the Commerce and Industry Program (PED 102), \$750,000 in fiscal year 1978-79 shall be used for aquaculture development; provided further, that the sum appropriated for aquaculture development, shall be implemented as nearly as practicable in the following order: Aquaculture Development Program, \$126,320; AFRC Workload Increase, \$82,000 (LNR 153); Marketing Program, \$35,000; UH Sea Grant, \$157,500; Marine Shrimp Development, \$60,000; Quarantine & Certification \$30,000; AFRC, \$104,000 (LNR 153); Prawn Ecotype Testing, \$16,000 (LNR 153); Oyster Project, \$25,000; Opihi, \$10,000; Baitfish, \$50,000; Marine Agronomy, \$25,000; and Information and Advisory, \$29,180; and, provided further, that temporary staff hired to carry out the functions in Act 12, SSLH 1977 shall be exempt from Chapters 76 and 77, Hawaii Revised Statutes."

(3) By adding a new section to read:

"SECTION 6B. Provided, that of the general fund positions (21.00) authorized to the Commerce and Industry Program (PED 102) in fiscal year 1978-79, one position (1.00) shall be for a Manganese Industry Development Specialist for the Center for Science Policy and Technology Assessment."

(4) By adding a new section to read:

"SECTION 6C. Provided, that if federal funds received under the Occupation Safety and Health Act are less than the amount designated in fiscal year 1978-79, then the Occupational Safety and Health Program (LBR 143) shall expend the full amount of the general fund appropriation used to match the designated federal funds."

(5) By adding a new section to read:

"SECTION 10A. Provided, that any provision of law to the contrary notwithstanding, the Governor is authorized to utilize an appropriate portion of the appropriation in Part II of this Act from the Air Transportation Facilities and Services Support Program (TRN 195) and the HIA Facilities and Services

Program (TRN 102) for salary increases for Unit 11 public employees excluded from collective bargaining under chapter 89, Hawaii Revised Statutes; provided further, that such increases shall not exceed and shall not take effect earlier than increases for comparable members of collective bargaining units.”

(6) By adding a new section to read:

“SECTION 9A. Provided, that of the appropriation to the Overall Program Support for Transportation Facilities and Services Program (TRN 995), no more than \$22,550 in fiscal year 1978–79 shall be expended for State matching funds for the operation of the Oahu Metropolitan Planning Organization (OMPO); provided further, that the sum of \$4,800 appropriated for a Management Support Consultant shall be expended only in the event that the services of the Director are unavailable due to illness or other reasons.”

(7) By adding a new section to read:

“SECTION 12A. Provided, that of the federal fund positions (4.00) authorized in fiscal year 1978–79 for the Natural Physical Environment Program (HTH 849), one position (1.00) shall be for a Public Participation Coordinator for the Environmental Health Programs.”

(8) By amending Section 13 to read:

“SECTION 13. Provided, that if special funds in the amount authorized in Part II of this Act for the Department of Health County/State hospital system are not realized, then the difference between the amount authorized and the amount actually realized is hereby appropriated from the general fund to the Department of Health.

Provided further, that if special fund receipts exceed the authorization in Part II of this Act and in Act I, Special Session Laws of Hawaii 1977, such excess receipts up to \$2,140,525 in fiscal year 1977–78 and \$3,447,363 in fiscal year 1978–79 for staffing, equipment, and for collective bargaining cost items may be expended for the County/State hospital system and that the general fund appropriation in Part II of this Act shall be reduced to the extent of any additional excess receipts.”

(9) By adding a new section to read:

“SECTION 13A. Any law to the contrary notwithstanding, moneys in the medicare trust fund, an interest-bearing trust account within the State treasury, in the amount of \$541,264.42, including all interest earned on such moneys to the effective date of this Act, shall be transferred to the County/State hospital special fund for staffing and other operational costs and the medicare trust fund shall be terminated.”

(10) By adding a new section to read:

“SECTION 17A. Provided, that of the FY 1978–79 general fund appropriation made for Community Based Services for Mental Health (HTH 401), the following (2.00) positions will be funded: (1.00) Clinical Psychologist VII to serve with the Hawaii Community Mental Health Center; and (1.00) Accountant II to be located at the Kalihi-Palama Mental Health Center Branch—Branch

Administration.”

(11) By adding a new section to read:

“SECTION 17B. Provided, that of the appropriation made for Kona Hospital (HTH 215), \$10,126 in fiscal year 1978–79 shall be expended to fund a Medical Records Technician position.”

(12) By adding a new section to read:

“SECTION 17C. Provided, that the department of health in implementing the statewide school health services branch shall assign to a school health complex a registered professional nurse, at the entry or next appropriate higher level.”

(13) By adding a new section to read:

“SECTION 18A. Provided, that of the general fund appropriation for the Eligibility Determination Program (SOC 236), \$60,000 in fiscal year 1978–79 shall be used for the training of eligibility determination staff for the purpose of increasing the effectiveness of this program as measured primarily in terms of the degree to which overdue eligibility redeterminations are kept to a minimum and error rates for overpayments, underpayments and ineligibles are reduced.”

(14) By adding a new section to read:

“SECTION 18B. Provided, that of the general fund appropriation to the Services to Families and/or Children Program (SOC 101), \$516,257 in fiscal year 1978–79 shall be used to match funds available under Title XX of the Social Security Act for purchase of service contracts with the following child care centers: Family Services Center (\$88,225); Infant Satellite Nurseries (\$20,169); Kalihi YMCA, Play Plus (\$37,120); Waikiki Community Center (\$29,877); Operation Kokua (\$31,831); Project Keiki (\$8,925); The Children’s Center, Inc. (\$73,423); Waianae Coast Day Care Centers, Inc. (\$81,415); Windward Child Care Federation (\$121,648); Hale Opio (\$15,000); and, Parent-Child Center of Kalihi-Koolauloa (\$8,624). Provided further, that the department of social services and housing shall set aside the amounts indicated above and shall contract for services with the designated agencies to the extent that the agencies can meet the terms of the contracts.”

(15) By amending Section 22 to read:

“SECTION 22. Provided, that of the appropriation for Health Care Payments (SOC 230), \$3,777,750 in fiscal year 1977–78 and \$3,764,063 in fiscal year 1978–79 shall be used as the State’s matching funds for medicaid reimbursements for Waimano Training School and Hospital (HTH 511).”

(16) By adding a new section to read:

“SECTION 22A. Provided, that of the appropriation for Health Care Payments (SOC 230), \$933,853 in fiscal year 1978–79 may be used as the State’s matching funds for medicaid reimbursements for Hawaii State Hospital (HTH 430).”

(17) By adding a new section to read:

"SECTION 30A. Provided, that the sum appropriated in the GOV 860 Program for the Legal Aid Society of Hawaii shall be the maximum amount of State funds which shall be used to support the operations of the Legal Aid Society of Hawaii, and that any awards of attorney's fees collected by the Legal Aid Society of Hawaii from any State agency or officer during fiscal year 1978-79 which would cause the amount of State funds to exceed the amount appropriated shall be set-off against the sum appropriated to the Legal Aid Society of Hawaii."

(18) By amending Section 32 to read:

"SECTION 32. Provided, that the amounts shown for Regular Instruction are intended for student enrollment projections of 172,349 for fiscal year 1977-78 and 170,183 for fiscal year 1978-79."

(19) By amending Section 33 to read:

"SECTION 33. Provided, that if the sum received by the Department of Education under Public Law 874, 81st Congress, 2nd Session, or any other public law with amends or supersedes Public Law 874, 81st Congress, 2nd Session, is less than \$12,400,000 for fiscal year 1977-78 and \$14,255,792 for fiscal year 1978-79, then the difference between \$12,400,000 for fiscal 1977-78 and \$14,255,792 for fiscal year 1978-79 and the sum received for each respective year is hereby appropriated from the general fund to the Department of Education; provided further, that if the sum received is greater than \$12,400,000 for fiscal year 1977-78 and \$14,255,792 for fiscal year 1978-79, then the general fund appropriation to the Department of Education shall be reduced to the extent that the actual sum received exceeds \$12,400,000 and \$14,255,792 for each respective fiscal year."

(20) By amending Section 34 to read:

"SECTION 34. Provided, that of the amounts shown for Regular Instruction programs for which the source of funding is not specified, the sum of \$107,313,649 for fiscal year 1977-78 and the sum of \$105,634,457 for fiscal year 1978-79 from the general fund and the sum of \$15,400,000 for fiscal year 1977-78 and the sum of \$16,755,792 for fiscal year 1978-79 from federal funds under P.L. 91-874, 81st Congress, 2nd Session, and P.L. 92-512 are appropriated to finance those programs for which the source of funding is not specified; provided further, that the superintendent of education shall determine, at his discretion, which portion of each program amount for the category "Operating: Basic Needs" shall be financed from the general fund and which portion shall be financed from federal funds, consistent with such federal provisions as may govern the expenditures of federal funds; provided further, that anything in the law or in any provision of this Act to the contrary notwithstanding, the superintendent of education is authorized to transfer funds and personnel positions for the category "Operating: Basic Needs" from one program to another among Regular Instruction programs in response to increases or decreases in individual school enrollments and teacher movements and in response to the establishment of new schools, such as Lahaina Intermediate and Sunset Beach Elementary; provided

further, that any such transfers of funds or positions shall not contravene any collective bargaining agreement that may have been or may be negotiated under Chapter 89, Hawaii Revised Statutes; provided further, that if the amounts shown for Regular Instruction programs for the category "Operating: Basic Needs" in either year of the fiscal biennium are insufficient to pay the personnel service costs for a particular school, the superintendent of education may supplement the amount from the sum of \$250,000 from the general fund for fiscal year 1977-78 and the sum of \$250,000 from the general fund for fiscal year 1978-79 provided for in EDN 304 (District Administration) such sums to be used for the sole purpose of supplementing school personnel service costs for regular instruction; provided further, that all such supplements to Regular Instruction programs for the category "Operating: Basic Needs" shall be reported to the 1978 and 1979 Regular Sessions of the Legislature; provided further, that personnel service costs for Regular Instruction programs may continue to be paid from a central salary account or such other accounts as the superintendent of education may, at his discretion, establish so as to minimize accounting or clerical burdens on individual schools."

(21) By amending Section 35 to read:

"SECTION 35. Provided, that in addition to the amount shown for Regular Instruction for the category "Operating: Basic needs", the sum of \$752,-355 for fiscal year 1977-78 and the sum of \$893,565 for fiscal year 1978-79 are appropriated from federal funds under P.L. 90-576 or P.L. 94-482 to be allocated by the superintendent of education, consistent with such federal provisions as may govern the expenditure of federal funds."

(22) By amending Section 38 to read:

"SECTION 38. Provided, that of the amounts shown for Regular Instruction programs for the category "Operating: Special Needs", the superintendent shall expend for each school the amount shown for additional supplies, equipment, and services to augment instruction or other purposes which, at the school's discretion, will benefit students or improve the program and operations of the school; provided further, that each principal shall consult with teachers and, to the extent practicable, with parents and students, to solicit their advice on the purposes for which expenditures are to be made; provided further, that the amount shown for each school is based on a formula which provides each school with a basic allocation of \$2,000 plus an additional \$7 per pupil for FY 1977-78; provided further, that for FY 1978-79, the amount shown for each school is based on a formula which provides each school with a basic allocation of \$2,000 plus an additional \$7 per regular and special education student in regular schools; provided further, that by such dates as designated by the superintendent of education and under such guidelines as he may issue, principals shall submit plans for the expenditure of special needs funds to their district superintendents; provided further, that a district superintendent may advise a principal to amend an expenditure plan if the need for a proposed expenditure can be met through the transfer of idle or underutilized supplies, equipment, or other resource from another school or source, and he is able to make such transfer; provided further,

that all school expenditures shall be made through normal departmental procurement and disbursing procedures; provided further, that there shall be kept for each school a record of the expenditures made, and the superintendent of education or the district superintendents may request the evaluation of specific expenditures; provided further, that the superintendent of education shall monitor expenditures to determine conformance to his guidelines and shall provide the legislature with such accountability reports as may be requested; provided further, that anything in the law or in any provision of this Act to the contrary notwithstanding, the superintendent of education may transfer funds in an equitable manner among programs for Regular Instruction for the category "Operating: Special Needs" in the event of significant changes in individual school enrollments resulting from such conditions as delayed school openings, changes in school boundaries, disasters or other emergencies and shall report to the legislature on the amounts transferred and the reasons therefor."

(23) By adding a new section to read:

"SECTION 45A. Provided, that of the general fund appropriation for Compensatory Education (EDN 108), \$31,984 for fiscal year 1978-79 shall be used for the continued operation of the Nanaikapono Community-School Museum."

(24) By adding a new section to read:

"SECTION 45B. Provided, that the department of education shall not use any of the funds appropriated to, or authorized to be expended by, the department for the purpose of developing, testing, validation, or implementing minimum competency tests which may deny any student an opportunity to be promoted from one grade to another or from graduating from any school; provided further, that the foregoing provision shall not prevent the department from developing and conducting tests at lower grade levels which assist parents and teachers to diagnose or identify individual student weaknesses or pinpoint remediation needs and from providing needed remediation or additional assistance to students."

(25) By adding a new section to read:

"SECTION 45C. Provided, that of the sums appropriated for the Public Libraries (EDN 407), for fiscal year 1978-79, \$10,000 (1.00) shall be used for the purpose of hiring one fulltime children's librarian at the Wailuku Library."

(26) By adding a new section to read:

"SECTION 46A. Provided that of the general fund appropriation for Instruction—UOH, Manoa (UOH 101), necessary funds shall be provided for two full-time professional positions and one clerical position in the Women's Studies Program."

(27) By amending Section 48 to read:

"SECTION 48. Provided, that the general fund appropriation for Organized Research—UOH, Manoa (UOH 102) includes \$4,966,199 and 231.26 positions for the Hawaii Agricultural Experiment Station (HAES) for fiscal year

1977-78 and \$5,270,793 and 240.26 positions for fiscal year 1978-79; provided further, that any increases due to collective bargaining above normal annual increments and longevity increases will be added to the amounts stated above in each year of the fiscal biennium; provided further that two positions (2.00) shall be used to hire two Research Technicians for the Kona branch station of HAES."

(28) By adding a new section to read:

"SECTION 48A. Provided that of the general fund appropriation for Organized Research—UOH, Manoa (UOH 102) \$893,220 in fiscal year 1978-79 shall be used for the operating requirements and research and development program of the Hawaii Natural Energy Institute; provided further, that the funds appropriated to H.N.E.I. shall be administered by the Research Corporation of the University of Hawaii."

(29) By adding a new section to read:

"SECTION 48B. Provided, that of the general fund appropriation for Organized Research—UOH, Manoa (UOH 102), \$150,000 shall be used for the ongoing Feed and Forage Research Project, Hawaii County, for fiscal year 1978-79."

(30) By amending Section 49 to read:

"SECTION 49. Provided, that the general fund appropriation for Public Service—UOH, Manoa (UOH 103) includes \$2,211,503 and 82.31 positions for the Cooperative Extension Service for fiscal year 1978-79; provided further, that any increases due to collective bargaining above normal annual increments and longevity increases will be added to the amounts stated above in fiscal year 1978-79; provided further, that 1.00 position of the above total positions shall be used to hire 1 additional Plant Crop Extension Agent (\$14,904) for the Kona Branch Station of the Cooperative Extension Service."

(31) By adding a new section to read:

"SECTION 49A. Provided, that of the general fund appropriation for Public Service—UOH, Manoa (UOH 103), \$126,202 and 3.00 positions for fiscal year 1978-79 for the Center for Governmental Development shall be transferred to the Supporting Services—Personnel Services (PER 191); provided, S.B. No. 1533-78† passed by the legislature, Regular Session of 1978, is enacted into law."

(32) By adding a new section to read:

"SECTION 49B. Provided, that of the general fund appropriation for Public Service—UOH Manoa (UOH 103), \$30,072 and 1.00 position in fiscal year 1978-79 shall be used for that employee of the Center for Governmental Development who has exercised his option to remain with the University of Hawaii; provided further, that of the foregoing appropriation, \$15,000 for fiscal year 1978-79 shall be used for the continuation of the Legislative Internship Program."

†Enacted as Act 48.



(33) By amending Section 52 to read:

"SECTION 52. Provided, that of the general fund appropriation for Academic Support—UOH, System-Wide Support (UOH 901), \$400,000 (49.00) for fiscal year 1977-78 and \$400,000 (4.50) for fiscal year 1978-79 shall be used for the Educational Improvement Fund; provided further, that priorities shall be given to existing undergraduate instructional programs and areas of selected excellence in instruction, research and public service throughout the University system; provided further, that a status report shall be presented to the 1978 and 1979 Legislature; provided further, that the (4.50) positions for fiscal year 1978-79 represent a reduction of (44.50) positions which have been transferred to other UOH programs to help meet planned levels of service for fiscal year 1978-79."

(34) By adding a new section to read:

"SECTION 54A. Provided that of the general fund appropriation for student services—UOH, Manoa (UOH 105), \$231,500 shall be used for the women's athletic program."

(35) By adding a new section to read:

"SECTION 54B. Provided, that of the general fund positions (8.00) authorized to Leeward Community College—Public Service Program (UOH 322), three positions (3.00) shall be used to retain the three temporary Community Educational Assistants employed by the Waianae-Nanakuli Education Center; provided further, that the three employees currently not in civil service and occupying the temporary Community Educational Assistant positions shall be converted to civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination and shall not experience any loss of pay or benefits and such conversion shall take effect retroactive to February 1, 1978."

(36) By adding a new section to read:

"SECTION 54C. Provided, that of the general fund appropriation for Academic Support—UOH System-Wide Support (UOH 901), \$250,000 in fiscal year 1978-79 shall be used to design and implement an Extended Degree Program at the University of Hawaii; provided further, that the director and secretary employed under the University Without Walls program shall be considered for employment in an exempt category under the Extended Degree Program; provided further, that in the implementation of this program, the needs of the students currently enrolled in the University Without Walls program shall be met; provided further, that the University shall closely monitor the development and implementation of this program and submit a detailed progress report during the 1979 legislative session."

(37) By amending a new Section 58 to read:

"SECTION 58. Provided, that \$35,000 in general fund appropriations for each fiscal year of the 1977-79 biennium from the Cultural History Program (BUF 802) shall be allocated to the Hawaii Foundation for History and the

Humanities (hereinafter called the Foundation) to contract for the services of the Multi-Cultural Center for an oral history project. The State shall be deemed the owner of any and all materials, whether complete or incomplete, written or recorded, which are generated by the Multi-Cultural Center in carrying out the terms of this provision. The Multi-Cultural Center shall submit to the Foundation and to the Legislature statements of revenue and expenditures from all sources of funds no later than fifteen (15) days after the close of each fiscal year."

(38) By adding a new section to read:

"SECTION 58A. Provided, that of the general fund appropriation for the Cultural History Program (BUF 802), \$5,000 in fiscal year 1978-79 shall be allocated to the Hawaii Foundation for History and the Humanities (hereinafter called the Foundation) for a grant-in-aid to Windward Video for the production of videotapes on major public policy issues proposed by Windward Video and approved by the Foundation; provided further, that the Foundation shall be the owner of any and all materials, whether complete or incomplete, written or recorded, which are generated by Windward Video in carrying out the terms of this provision."

(39) By adding a new section to read:

"SECTION 69A. Provided, that of the general fund appropriation for the In-Community Facilities Program (SOC 404), \$79,127 in fiscal year 1978-79 shall be used to fund the operations of Liliha House II."

(40) By adding a new section to read:

"SECTION 70A. Provided, that of the sum appropriated to the Office of the Governor (GOV 100) for defraying the expenses of the 1978 Constitutional Convention, \$240,547 may be contracted to the legislative reference bureau for the following purposes: \$200,000 for a citizen education program and \$40,547 for staff services for the constitutional convention delegates."

(41) By amending Section 72 to read:

"SECTION 72. Provided, that of the general fund appropriation for Other Policy Development and Coordination—Governor (GOV 102), \$345,388 (3.00) for fiscal year 1977-78 and \$352,173 (3.00) for fiscal year 1978-79 shall be used for the Agriculture Coordinating Committee."

(42) By amending Section 75 to read:

"SECTION 75. Provided, that of the general fund appropriation for Land Use, Statewide Plan and Coordination (PED 103), \$400,000 in fiscal year 1977-78 and \$200,000 in fiscal year 1978-79 for the Coastal Zone Management Program shall be expended only if matching federal funds are available; provided further, that DPED is authorized to use savings and other funds as may be made available by other State and County agencies, to match Federal CZM funds."

(43) By adding a new section to read:

"SECTION 75A. Provided, that of the general fund appropriation for the Land Use, Statewide Plan and Coordination Program (PED 103), one Planner

VI position in fiscal year 1978-79 shall be designated for the State Plan Project in the Planning Division of the Department of Planning and Economic Development."

(44) By adding a new section to read:

"SECTION 75B. Provided, that of the general fund appropriation for the Land Use, Statewide Plan and Coordination Program (PED 103), \$100,000 in fiscal year 1978-79 shall be used for the development of the Economic Planning Information System; provided further, that the temporary personnel hired for the Economic Planning Information System Project may be employed without regard to Chapters 76 and 77, Hawaii Revised Statutes."

(45) By adding a new section to read:

"SECTION 77A. Provided, that of the general fund appropriation for the Income Assessment and Audit Program (TAX 102), \$18,782 (2.00) in fiscal year 1978-79 shall be used to establish and fund two Income Tax Specialist V positions and necessary equipment to handle the annual update of chapter 235, Hawaii Revised Statutes, to conform it with Internal Revenue Code changes for the department of taxation, including the preparation of the necessary form and form changes, tax information releases, tax memoranda, and rules."

(46) By adding a new section to read:

"SECTION 78A. Provided, that of the general fund appropriation for Internal Post Audit (AGS 104), \$100,000 for fiscal year 1978-79 shall be used for the general fund audit of the Department of Health for the fiscal year ending June 30, 1978."

(47) By adding a new section to read:

"SECTION 78B. Provided, that of the general fund appropriation for Legal Services (ATG 100) for fiscal year 1978-79, \$150,000 shall be used for the realignment of personnel compensation."

(48) By amending Section 83 to read:

"SECTION 83. Provided, that of the general fund appropriation for fiscal year 1977-78 to Subsidies to Counties (SUB 101), additional grants-in-aid representing the unallocated balance of sums appropriated in Section 4 (49), Section 87B, Act 226, Session Laws of Hawaii 1976, shall be allocated in the following manner: County of Kauai, \$822,088; County of Hawaii, \$1,065,001; and County of Maui, \$700,000. Provided further, that out of the general fund appropriation for fiscal year 1977-78 to Subsidies to Counties (SUB 101), an additional one-time grants-in-aid of \$3,529,000 shall be allocated to the City and County of Honolulu; provided further, that any amount not released by the Governor in fiscal year 1977-78 shall be paid to the Counties in fiscal year 1978-79."

(49) By adding a new section to read:

"SECTION 83A. Provided, that of the general fund appropriation for fiscal year 1978-79 to Subsidies to Counties (SUB 101), an additional one-time,

## ACT 243

grants-in-aid of \$1,000,000 shall be allocated to the various counties in a manner determined by the Governor.”

SECTION 5. Section 86, Act 10, Special Session Laws of Hawaii 1977, is amended to read:

“SECTION 86. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided, that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and total funding for each project listed in this part are in thousands of dollars.)

**APPROPRIATIONS (\$1,000's)**

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
<b>A. ECONOMIC DEVELOPMENT</b>										
<b>COMMERCE AND INDUSTRY</b>										
1.	Research of Geothermal Resources		AES771	PED	102					
	Plans, designs, and construction of a research facility for non-electric applications including test pads and piping to deliver geothermal fluids. Assessment of geothermal resources statewide including the state's share of the cost of a stepout well in Puna. No matching funds required.									
	Design						545		545	
	Construction						305		305	
	Total Funding			PED		C	850C		850C	
2.	Biomass Energy Resources		AES772	PED	102					
	Plans, designs, and construction of facilities for biomass energy projects, including construction of pilot plant facilities for production of fuel oil from alga, modification of plant facilities for production of alcohol from sugarcane, research and development on production of alcohol from corn & development of biomass energy from tree farms & other sources. No matching funds required.									
	Design						100		100	
	Construction						1,200		1,200	
	Total Funding			PED		C	1,300C		1,300C	
3.	Research and Development Projects for Development of Alternate Energy Sources in Hawaii,		AES774	PED	102					

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Plans, design, and construction of facilities for research and development of alternate energy sources in Hawaii, including acquisition of equipment and other necessary capital items, and including the investigation of wind, solar, bioconversion, geothermal, and ocean thermal energy conversion. No matching funds required.									
	Land Acquisition							1		1
	Design							60		60
	Construction							264		264
	Total Funding			PED		C		325C		325C

## TRADE AND FINANCE

## Economic Assistance for Trade &amp; Finance

4. Hawaii International Trade Center  
Plans and construction for development of the Hawaii international trade center, including necessary off-site improvements. Unexpended balances in item A-12 of Act 195, SLH 1975 may be used for this project.

A11 PED 105

Design						1			1
Construction						1			1
Total Funding				PED		2C		C	2C

## AGRICULTURE

Productvty Imprvmnt & Mgt Asstnce for Agr  
Production & Mngmnt Methods Imprvmnt  
for Agr  
Farms & Ranches—Prodcn & Mgt  
Imprvmnt

5.	Molokai Water System Improvement To upgrade the existing water system on Molokai to county of Maui standards.	H30 HHL III			
	Design		150		150
	Construction		900	2,000	2,900
	Total Funding	HHL	1,050C	2,000C	3,050C
6.	Panaewa Farm Subdivision Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan.	H38 HHL III			
	Design			60	60
	Construction		1,200	800	2,000
	Total Funding	HHL	1,200C	860C	2,060C
7.	Anahola-Molokaa Farm and Pastoral Subdivision Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan.	H39 HHL III			
	Design		50		50
	Construction		1,250		1,250
	Total Funding	HHL	1,300C	C	1,300C
8.	Hawaiian Home Lands Project, Molokai Plans for development of Hawaiian home lands in accordance with DHHL general plan.	H40 HHL III			
	Design		50		50
	Total Funding	HHL	50C	C	50C
9.	Hawaiian Home Lands Project, Kamaoa-Pueo, HA Plans for development of Hawaiian home lands in accordance with DHHL general plan.	H43 HHL III			
	Design		50		50
	Total Funding	HHL	50C	C	50C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
10.	Hawaiian Home Lands Project, Anahola, Kauai Plans for development of Hawaiian home lands in accordance with DHHL general plan.	H45	HHL	111						
	Design				50				50	
	Total Funding			HHL	50C		C		50C	
	Plant Pest and Disease Control									
	Plant Quarantine									
11.	Laboratory Expansion Plant Quarantine Facility Honolulu Expansion of laboratory by 816 sq. ft.	017	AGR	121						
	Design				14				14	
	Construction						82		82	
	Total Funding			AGS	14C		82C		96C	
12.	Plant Industry Facility Hilo Hawaii Site selection and design of new facilities for plant industry, farm loan and milk control divisions. Demolition of present facilities.	018	AGR	121						
	Design				66				66	
	Total Funding			AGS	66C		C		66C	
13.	New Air Tight Seal and Door Fumigation Vaults Plant Quarantine Facility Honolulu Design and construct new sealing system and doors for the drive in fumigation vaults plant quarantine facility Honolulu Hawaii	019	AGR	121						
	Design				5				5	
	Construction				28				28	
	Total Funding			AGS	33C		C		33C	



	Animal Pest and Disease Control Animal Quarantine				
14.	Renovation of Sewage Treatment System, Animal Quarantine Station Halawa Oahu Renovations and construction of necessary changes to sewage treatment plant, AQS, to meet effluent discharge standards.	010 AGR 131			
	Design			15	15
	Construction			85	85
	Total Funding	AGS	C	100C	100C
	Animal Disease Control				
15.	Animal Industry Laboratory, Office Building, Halawa Construct and completely equip an 18000 sq. ft. laboratory-office building to centralize the programs of the animal industry division and to comply with the terms of the agreement with the federal government on which the land at Halawa was released.	002 AGR 132			
	Design			73	73
	Construction			2,573	2,573
	Total Funding	AGS		C	2,646C
	General Support for Agr General Administration for Agr				
16.	Renovation of DOA Facilities, King and Keeaumoku Streets, Oahu Additions and renovations to the present facil- ities located in the main complex, department of agriculture, King and Keeaumoku Streets, Honolulu.	011 AGR 192			
	Design			51	128
	Construction			105	348
	Total Funding	AGS		320C	476C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
17.	Renovation of HDI Facilities, Ala Moana Additional office space and other renovations to include decontamination, to the present Hawaii Development Irradiation building located on Ilalo Street, Ala Moana, Oahu.	012	AGR	192						
	Design						53		53	
	Total Funding			AGS	C		53C		53C	
	Water Development & Irrigation Services									
18.	Kona Water Project, Hawaii Kona Water Project, Hawaii Incremental development of water system including plans and construction of source development, a development shaft, pumps and appurtenances, transmission mains, and storage facilities.	G03	LNR	141						
	Design						50		50	
	Construction				2,500		730		3,230	
	Total Funding			LNR	2,500C		780C		3,280C	
19.	West Maui Water Project, Maui West Maui Water Project, Maui Incremental development of water systems, including plans and construction of source development, transmission mains, storage facilities and appurtenances, including development of water resources.	G04	LNR	141						
	Land Acquisition				20				20	
	Design				80				80	
	Construction				450		450		900	
	Total Funding			LNR	550C		450C		1,000C	

20.	Koloa-Poipu Water System, Kauai Koloa-Poipu Water System, Kauai Incremental development of water system including plans and construction of pipelines, storage facilities, source development and appurtenances.	G18 LNR 141			
	Design		20		20
	Construction		650		650
	Total Funding	LNR	670C	C	670C
21.	Water Sources Investigation, and Development, Hawaii Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.	G25 LNR 141			
	Land Acquisition		10	10	20
	Design		30	30	60
	Construction		260	260	520
	Total Funding	LNR	300C	300C	600C
22.	Water Sources Investigation, and Development, Oahu Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.	G43 LNR 141			
	Land Acquisition		10	10	20
	Design		90	90	180
	Construction		300	300	600
	Total Funding	LNR	400C	400C	800C
23.	Water Sources Investigation, and Development, Kauai Engineering and economic studies, geologic and hydrologic investigation, exploration and	G44 LNR 141			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	development for the conservation and utilization of surface and ground water sources including the improvement of water quality.									
	Land Acquisition				10		10		20	
	Design				50		50		100	
	Construction				240		240		480	
	Total Funding			LNR	300C		300C		600C	
24.	Water Sources Investigation, and Development, Maui		G46	LNR	141					
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.									
	Land Acquisition				10		10		20	
	Design				50		50		100	
	Construction				240		240		480	
	Total Funding			LNR	300C		300C		600C	
25.	Improvements to Lalamilo Irrigation System Hawaii		G52	LNR	141					
	Improvements to irrigation system including plans and construction of pipelines, storage facilities, source development, land acquisition and installation and replacement of transmission mains and appurtenances.									
	Land Acquisition						10		10	
	Design				190		130		320	
	Construction						1,900		1,900	
	Total Funding			LNR	190C		2,040C		2,230C	

26. Molokai Tunnel Power Line G53 LNR 141

Replacement of existing high voltage cable in the Molokai tunnel, including the installation of transformers and appurtenances.

Design		40		40
Construction		410		410
Total Funding	LNR	450C	C	450C

#### ECON PLANNING & COORD FOR ECON DEVELOPMENT

Office of the Gov - Gnrl Sppt for Econ Dev

27. Natural Energy Laboratory of Hawaii AES773 GOV 109

Facilities and Research Projects.

Plans, designs & construction of facilities at the natural energy laboratory of Hawaii at Ke-Ahole Point, Hawaii including road & utilities, quarters, office & storage space, security fence, lab. bldg., & other facilities for support of research proj., including off shore pipelines & related costs & research & development in deep ocean nutrient rich water. No matching funds required.

Design			250	250
Construction			2,275	2,275
Total Funding	GOV	C	2,525C	2,525C

#### C. TRANSPORTATION FACILITIES

##### AIR TRANSPORTATION FACILITIES AND SVCS

HIA Facilities & Svcs

- I. Freeway Connection and Roadway Alter. A10 TRN 102

Construct the ramps and roadway connections to the H-1 freeway, alterations to the internal roadway system, and other miscellaneous adjustments and improvements.

Design			500	500
Construction			4,580	4,580
Total Funding	TRN	B	2,526B	2,526B
	TRN	N	2,554N	2,554N

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
2.	Taxiway Improvements Construction of high speed exit taxiway and appurtenances and stabilize shoulders of various taxiways.	A12	TRN	102						
	Design						175		175	
	Construction						1,589		1,589	
	Total Funding			TRN		B	764B		764B	
				TRN		N	1,000N		1,000N	
3.	Construction of Central Concourse and Baggage Claim Construct two-level passenger gates for wide bodied aircraft & smaller at central concourse. Reconstruct existing apron, taxiway, fuel system & other misc. improvements. Install loading bridges, apron transporters, docking systems, furniture & other misc. equipment. Reconstruct existing landscaped gardens. Alternate baggage claim area and install new claim devices.	A13	TRN	102						
	Design					200			200	
	Construction				22,896		1,500		24,396	
	Total Funding			TRN	7,767B		1,500B		9,267B	
				TRN	10,701E		E		10,701E	
				TRN	4,628N		N		4,628N	
4.	Concrete Keel Extension, Runway 8L Construct 900 feet plus section of keel within the Hickam property and adjust the runway lights and other improvements.	A16	TRN	102						

	Design		40		40
	Construction		410		410
	Total Funding	TRN	450B	B	450B
5.	Fire Alarm System	A17 TRN 102			
	Upgrade the terminal fire alarm system, including the integration of the system with the city and county and airport fire stations.				
	Design		6		6
	Construction		56		56
	Total Funding	TRN	62B	B	62B
6.	New Control Tower	A18 TRN 102			
	Construct new control tower and miscellaneous appurtenances.				
	Design		5		5
	Construction		870		870
	Total Funding	TRN	875B	B	875B
	General Lyman Field Facilities and Svcs				
7.	Airfield Improvements	B05 TRN 111			
	Construct runway safety areas and other airfield improvements.				
	Design		5		5
	Construction		70		70
	Total Funding	TRN	75D	D	75D
8.	Taxiway Improvements	B07 TRN 111			
	Construction of a high speed exit taxiway for runway 8-26 and other appurtenant improvements.				
	Design			45	45
	Construction			255	255
	Total Funding	TRN	E	300E	300E
	Ke-Ahole Airport Facilities and Services				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
9.	Ke-Ahole Airport Expansion to Auto Parking Alteration and expansion of auto parking area, roadway improvement, lighting, landscaping, and other miscellaneous improvements.	C02	TRN 114							
	Design				20				20	
	Construction				130				130	
	Total Funding			TRN	150D			D	150D	
10.	Terminal Improvements Construct the airport maintenance building, new fire station and expand the terminal facilities and other improvements.	C03	TRN 114							
	Design				30				30	
	Construction				670				670	
	Total Funding			TRN	210D			D	210D	
				TRN	490N			N	490N	
11.	Airfield Improvements Expand aircraft apron, landscaping, and other appurtenances.	C05	TRN 114							
	Design				8				8	
	Construction				116				116	
	Total Funding			TRN	124D			D	124D	
	Kahului Airport Facilities and Services									
12.	Kahului Airport Terminal Expansion Construct additions and alterations to passenger and cargo terminal buildings, parking lot, roadways and other misc. improvements. Land-	D04	TRN 131							



scape and install furniture and other miscellaneous equipment.

Design		125		125
Construction		2,375		2,375
Total Funding	TRN	2,500E	E	2,500F

13. Improvements to General Aviation East Ramp

Construction of taxiway, apron, T-hangars, roadway improvement, clearing and grubbing, lighting and other miscellaneous improvements for general aviation area east ramp.

Design			160	160
Construction			1,040	1,040
Total Funding	TRN	E	1,200E	1,200F

Lihue Airport Facilities and Services

14. New Passenger Terminal

Design and construct new terminal facilities and other miscellaneous improvements.

Design			400	400
Construction			7,460	7,460
Total Funding	TRN	B	4,809B	4,809B
	TRN	E	3,051E	3,051E

Kalaupapa Airport Facilities and Services

15. Roadway and Fencing

Acquire government surplus land, realign public roadway, install perimeter fencing and other miscellaneous improvements.

Design		6		6
Construction		104		104
Total Funding	TRN	30D	D	30D
	TRN	80N	N	80N

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M OF	Fiscal Year 1978-79	M OF	Total Biennium 1977-79	M OF
	<b>WATER TRANSPORTATION FACILITIES AND SERVICES</b>									
	<b>Honolulu Harbor Facilities and Services</b>									
16.	Misc Improv to Exist Pier Fac at Hon Har Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu harbor, including improvements to lighting, oil lines, paving, and other facilities.	J03	TRN 301							
	Design				8		9		17	
	Construction				47		51		98	
	Total Funding			TRN	55B		60B		115B	
17.	Container Facilities at Honolulu Harbor Improvements and/or modifications to the ex- isting facilities at Honolulu harbor to meet the growing demands of container operations and other improvements.	J04	TRN 301							
	Design				65				65	
	Construction				435				435	
	Total Funding			TRN	500D		D		500D	
18.	Container Facilities at Sand Island, Oahu Expansion and development of container faci- lities at Sand Island, including piers, sheds, yard areas and other improvements.	J06	TRN 301							
	Design				300		20		320	
	Construction				9,300		4,410		13,710	
	Total Funding			TRN	9,600D		4,430D		14,030D	
19.	Navigational Improvements to Hon Harbor Navigational improvements. Dredge main en-	J09	TRN 301							

trance channel and main harbor basin, and Kapalama channel and basin construction of revetments and other improvements. Possible federal aid anticipated in the planning period is approximately \$7,380,000.

	Design			50	50
	Construction			275	275
	Total Funding	TRN	B	325B	325B
20.	Improvements to Piers 39 40 Complex, Hon Har	J20 TRN 301			
	Improvements to piers 39 40 complex including renovations, new facilities and other improvements.				
	Design			65	65
	Construction			435	435
	Total Funding	TRN	B	500B	500B
21.	Bascule Bridge, Honolulu Harbor	J22 TRN 301			
	Preliminary engineering for a second bascule bridge to Sand Island at Honolulu harbor.				
	Design		300		300
	Total Funding	TRN	300B	B	300B
	Hilo Harbor Facilities and Services				
22.	Hilo Harbor Improvements, Hawaii	L01 TRN 311			
	Improvements to Hilo harbor port facilities including modifications to pier 1 shed & apron, expansion of container facilities, construction of ro-ro & lo-lo facilities, improvements to pier 2-3 area, removal of bag sugar warehouse and other improvements. Unexpended funds from item C-28, Act 218, SLH 1974, and item C-25, Act 195, SLH 1975 may be used to supplement the appropriation for this project.				
	Design		15		15
	Construction		60		60
	Total Funding	TRN	75B	B	75B

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. Program ID No. Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Kawaihae Harbor Facilities and Services								
23.	Kawaihae Harbor Improvements, Hawaii Kawaihae harbor improvements including barge terminal expansion, office and shop facil- ities and other improvements.	L03	TRN 313						
	Design					28		28	
	Construction					122		122	
	Total Funding		TRN		B	150B		150B	
	Kahului Harbor Facilities and Services								
24.	Kahului Harbor Improvements Maui Kahului harbor improvements including acqui- sition of land, development of container facil- ities, ro-ro, and fishing vessel facilities, and other improvements.	M01	TRN 331						
	Land Acquisition			810		50		860	
	Construction			854		500		1,354	
	Total Funding		TRN	200B		B		200B	
			TRN	1,464D		550D		2,014D	
	Nawiliwili Harbor Facilities and Services								
25.	Nawiliwili Harbor Improvements Kauai Nawiliwili har impr including paving cargo storage areas, utility relocation, comfort sta- tion in the jetty area, removal of water storage tank, and federal-state future project including dredging and widening of entrance channel and harbor basin, and other improvements, possible federal aid anticipated is approx. \$3,480,000.	K01	TRN 361						

	Design			22	15	37
	Construction			88	60	148
	Total Funding	TRN		110B	75B	185B
	Water Transportation Fac & Svcs Support					
26.	Misc. Imprv. to Fac. at Neighbor Is. Ports Improvements to yard areas, sheds, piers, utilities. Water areas and other facilities.	103	TRN	395		
	Design			4	4	8
	Construction			21	21	42
	Total Funding		TRN	25B	25B	50B
	LAND TRANSPORTATION FACILITIES AND SERVICES					
	Oahu Highways and Services					
27.	Interstate Route H-1, Safety Improvements and reconstruction of University Avenue interchange, Oahu—safety improvements and reconstruction of University Avenue interchange.	Q47	TRN	501		
	Design				30	30
	Total Funding		TRN	D	30D	30D
28.	Interstate Route H-1, East of Halawa I.C. To Middle Street separation, Oahu—incremental construction of eight freeway lanes, including Pearl Harbor, Airport and Keehi interchanges.	R12	TRN	501		
	Construction			49,347	38,327	87,674
	Total Funding		TRN	4,755D	3,813D	8,568D
			TRN	44,592J	34,514J	79,106J
29.	Busway on Interstate and Other Routes on Oahu—construction of busways for mass transit on interstate and other routes.	R13	TRN	501		
	Design			70	70	140
	Construction			530	530	1,060
	Total Funding		TRN	200D	200D	400D
			TRN	400N	400N	800N

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
30.	Kamehameha Highway, Helemano-Waialua Junction to Haleiwa beach park, Oahu—re-alignment and improvement of highway from Helemano-Waialua junction to Haleiwa beach park. To be supplemented by funds from Act 68, SLH 1971, item IV, H-32 which may be used for land and design.	R53	TRN	501						
	Design						1		1	
	Total Funding			TRN		D	1D		1D	
31.	Likeline Highway Lighting—Tunnel to Kam Highway, Kaneohe—lighting on the windward side of Wilson Tunnel to the intersection of Kam Highway.	S04	TRN	501						
	Construction				133				133	
	Total Funding			TRN	133D		D		133D	
32.	Improvements to Oahu District Baseyard, Honolulu, Oahu	S42	TRN	501						
	Design						8		8	
	Construction						53		53	
	Total Funding			TRN		D	61D		61D	
33.	Moanalua Road Improvements—Aiea Towards Middle Street, Oahu—improving the existing four-lane divided highway from Aiea to Middle Street.	S65	TRN	501						
	Construction						6,600		6,600	
	Total Funding			TRN		D	2,300D		2,300D	
				TRN		K	4,300K		4,300K	

34.	Oahu Bikeways, Oahu Construct a bikeway on Oahu from the vicinity of Ala Moana Park to Mokuleia by way of Pearl Harbor, Waipahu, Waianae and Kaena Point.	S74 TRN 501				
	Design				30	30
	Total Funding	TRN	D		30D	30D
35.	Honolulu Airport Gateway Beautification, Nimitz Highway & Ala Moana Blvd., Oahu. Landscaping and sprinkler systems on Nimitz Highway and Ala Moana Blvd. from the vicini- ty of Sand Island Access Road to the vicinity of Ala Wai Canal.	S76 TRN 501				
	Design			200		200
	Total Funding	TRN		200D	D	200D
36.	Guardrail Improvements, Various Locations on State Highways on Oahu. Installation of new steel guardrails, new con- crete safety barrier, replacement of existing wooden guardrails with steel guardrails and modernization of existing guardrails at various locations on state highways on Oahu.	S78 TRN 501				
	Design			20	20	40
	Construction			280	280	560
	Total Funding	TRN		300D	300D	600D
37.	Shoulder Stabilization, Various Locations on State Highways on Oahu. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on state highways on Oahu.	S79 TRN 501				
	Design			13	7	20
	Construction			122	93	215
	Total Funding	TRN		135D	100D	235D

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. No.	Agy.	Fiscal Year 1977-78		Fiscal Year 1978-79		Total Biennium 1977-79	
						M	F	M	F	M	F
38.	Study to Increase Safety & Capacity of Interstate H-1 from Middle St. to Aina Koa, Oahu; And design, land & construction for high occupancy vehicle (HOV) lanes on interstate H-1 from Middle Street to Vineyard Blvd. Funds may be supplemented by item C-27 of Act 10, SSLH 1977.	S81	TRN	501							
	Design					250		1,500		1,750	
	Total Funding				TRN	250D		225D		475D	
					TRN	J		1,275J		1,275J	
39.	Makai Boulevard Concept: High Occupancy Vehicle (HOV) Lanes, Oahu. To provide HOV lanes from Keehi interchange at interstate H-1, along the makai boulevard network to Kapiolani interchange on interstate H-1, and design, land and construction for the first phase of HOV lanes, Keehi interchange to Pier 18 along Nimitz Highway.	S82	TRN	501							
	Design							1,400		1,400	
	Total Funding				TRN	D		500D		500D	
					TRN	K		900K		900K	
40.	Sand Island Access Road Widening and Improvements, Oahu.	S83	TRN	501							
	Design							250		250	
	Total Funding				TRN	D		250D		250D	



41.	Pedestrian Overpass on Kalihi Street in the Vicinity of Bishop Museum, Oahu.	S84	TRN	501				
	Land Acquisition						40	40
	Design						30	30
	Total Funding		TRN		D		70D	701D
42.	Rehabilitate Existing Sprinkler Systems at Various Locations, Oahu	S85	TRN	501				
	Rehabilitate existing sprinkler systems to conserve water on landscaped areas along the interstate freeways and other major urban highways.							
	Design						50	50
	Total Funding		TRN		D		201D	201D
			TRN		J		20J	20J
			TRN		K		10K	10K
43.	Access Road to Ho'omaluhia Wilderness Park, Oahu	S86	TRN	501				
	Plans and construction for an improved access road to the Ho'omaluhia Wilderness Park. To be matched by city and county of Honolulu funds.							
	Design						30	30
	Construction						490	490
	Total Funding		TRN		D		260D	2601D
			TRN		S		260S	260S
	Hawaii Highways and Services							
44.	Keaau-Pahoa Rd., Puna, Hawaii	T62	TRN	511				
	Realignment of highway from the vicinity of Keonepoko homesteads to Pahoa-Kalapana Road in the vicinity of the Pahoa-Kalapana-Kapoho Road junction. Funds to be supplemented by item C-59 of Act 195, SLH 1975 and item C-33 of Act 226, SLH 1976.							
	Land Acquisition						200	200
	Total Funding		TRN		D		70D	701D
			TRN		L		130L	130L

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
45.	Honokaa-Waipio Road: Hamakua, Hawaii. Design and construction of two-lane highway from Haina Road intersection to Waipio Look-out.	T72	TRN	511						
	Construction				1,032				1,032	
	Total Funding			TRN	1,032D		D		1,032D	
46.	Hawaii Belt Road, Kau-Kona Hwy, Hawaii Plans and construction for incremental construction and realignment of highway between Kau and Kona.	T73	TRN	511						
	Construction						650		650	
	Total Funding			TRN		D	650D		650D	
47.	Keaau-Pahoa Road Puna, Hawaii. Reconstruction of highway from Hawaiian Paradise Park to vicinity of Keonepoko home-steads.	T75	TRN	511						
	Land Acquisition						149		149	
	Total Funding			TRN		D	52D		52D	
				TRN		L	97L		97L	
48.	Shoulder Stabilization, Various Locations on State Highways on Hawaii.  Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on state highway on Hawaii.	T77	TRN	511						
	Design				6		9		15	
	Construction				122		179		301	
	Total Funding			TRN	128D		188D		316D	

49.	Guardrail Improvements, Various Locations on State Highways on Hawaii. Installation of new steel guardrails, replacement of existing wooden guardrails with steel guardrails and modernization of existing guardrails at various locations on state highways on Hawaii.	T78 TRN 511			
	Design		5	5	10
	Construction		41	44	85
	Total Funding	TRN	461D	491D	951D
	Maui Highways and Services				
50.	Maui Baseyard, Kahului, Maui. Design and construction for Maui district baseyard.	V17 TRN 531			
	Design			40	40
	Total Funding	TRN	D	40D	40D
51.	Honoapiilani Highway, Lahaina, Maui Construction of two-lane highway from Honokowai to Honokahua.	V42 TRN 531			
	Construction		3,164		3,164
	Total Funding	TRN	839D	D	839D
		TRN	2,325K	K	2,325K
52.	Piilani Highway, Kihei to Ulupalakua, Maui—Incremental construction of highway from Kihei to Ulupalakua.	V43 TRN 531			
	Land Acquisition			275	275
	Construction			140	140
	Total Funding	TRN	D	415D	415D
53.	Hana Highway—Kailua to Hana, Maui Repair and replacement of bridges and culverts, safety improvements and resurfacing of Hana Highway from Kailua to Hana.	V45 TRN 531			
	Land Acquisition		40	40	80
	Design		60	60	120
	Construction		530	530	1,060
	Total Funding	TRN	630D	630D	1,260D

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M OF	Fiscal Year 1978-79	M OF	Total Biennium 1977-79	M OF
54.	Kahului Airport Gateway Beautification— Kahului Airport to Wailuku, Maui Beautification of highway from Kahului Airport to Wailuku.	V46	TRN	531						
	Design				70				70	
	Total Funding			TRN	70D		D		70D	
55.	Honoapiilani Highway—Papalaua Drainage Basin, Erosion Control of Embankment, Maui.	V47	TRN	531						
	Design				5				5	
	Construction				195				195	
	Total Funding			TRN	200D		D		200D	
56.	Guardrail Improvements, Various Locations on State Highways on Maui. Installation of new guardrails, replacement of existing wooden guardrails with steel guardrails and modernization of existing guardrails at various locations on state highways on Maui.	V48	TRN	531						
	Design				15		20		35	
	Construction				95		108		203	
	Total Funding			TRN	110D		128D		238D	
57.	Shoulder Stabilization, Various Locations on State Highways on Maui. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on state highways on Maui.	V49	TRN	531						

	Design				15	10	25
	Construction				280	280	560
	Total Funding		TRN		295D	290D	585D
	Molokai Highways and Services						
58.	Maintenance Baseyard, Molokai	W05	TRN	541			
	Construction of a maintenance baseyard, facilities and office for Molokai.						
	Construction					125	125
	Total Funding		TRN		D	125D	125D
59.	Kamehameha V Hwy & Maunaloa Hwy, Drainage Improvements at Various Locations, Molokai.	W06	TRN	541			
	Drainage improvements at various locations on Kamehameha V Highway, Kaunakakai to Kamalo and Maunaloa Highway.						
	Design					20	20
	Construction					100	100
	Total Funding		TRN		D	120D	120D
60.	Kamehameha V Highway and Maunaloa Highway—Replacement of Bridges, Molokai.	W07	TRN	541			
	Replacement of Ohia, Kaluaaha, Kupeke, Honomuni, Honoulimaloo Bridges on Kamehameha V Highway and Manawainui Bridge on Maunaloa Highway.						
	Design				75	120	195
	Construction					600	600
	Total Funding		TRN		75D	120D	195D
			TRN		L	600L	600L
	Lanai Highways and Services						
61.	Maintenance Baseyard, Lanai	W57	TRN	551			
	Construction of baseyard and new facilities for Lanai.						
	Construction					60	60
	Total Funding		TRN		D	60D	60D

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
62.	Kauai Highways and Services Kauai Belt Rd., Hanalei to Kalihiwai Hanalei, Kauai—Construction of highway, including appurtenant drainage, landscaping and improvements.	X03	TRN	561						
	Construction						2,546		2,546	
	Total Funding			TRN		D	661D		661D	
				TRN		K	1,885K		1,885K	
63.	Kekaha Sea Wall, Kauai Plans and construction of addition to seawall along Kaumualii Highway.	X37	TRN	561						
	Design					20			20	
	Construction					200			200	
	Total Funding			TRN		220D		D	220D	
64.	Hanamaulu-Ahukini Cutoff Rd. Kauai Land acquisition, plans & construction of hwy to relieve congestion thru Lihue town area.	X43	TRN	561						
	Land Acquisition						200		200	
	Design						200		200	
	Construction						594		594	
	Total Funding			TRN		D	994D		994D	
65.	Lihue Airport Gateway Beautification— Kauai Beautification of Ahukini Road between Lihue Airport and Kuhio Highway and Ahukini-Nawiliwili cutoff road.	X44	TRN	561						
	Land Acquisition					50			50	
	Design					130			130	

	Construction			250		250
	Total Funding		TRN	430D	D	430D
66.	State Highways, Kauai—Safety Improvements at Various Locations Including Drainage	X49	TRN 561			
	Land Acquisition				20	20
	Design			40	30	70
	Construction				200	200
	Total Funding		TRN	40D	250D	290D
67.	Kauai Belt Road—Safety Improvements, Kauai	X50	TRN 561			
	Safety improvements between Eleele Road and Hanapepe Road.					
	Design				5	5
	Construction				375	375
	Total Funding		TRN	D	380D	380D
68.	Shoulder Stabilization, Various Locations on State Highways on Kauai.	X51	TRN 561			
	Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on state highways on Kauai.					
	Design			15	15	30
	Construction			212	205	417
	Total Funding		TRN	227D	220D	447D
69.	Guardrail Improvements, Various Locations on State Highways on Kauai.	X52	TRN 561			
	Installation of new steel guardrails, replacement of existing wooden guardrails with steel guardrails and modernization of existing guardrails at various locations on state highways on Kauai.					
	Design			5	5	10
	Construction			85	90	175
	Total Funding		TRN	90D	95D	185D

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
70.	Kekaha Beach Erosion Control, Kauai Construction of Revetment or Other Means To Reduce or eliminate damage to the shoreline, Kaumualii Highway and other facilities. This is a State and Federal (Corps of Engineers) planned and funded project and it is antici- pated that \$1,000,000 in Federal funds will be available for this project. Work to include re- pair and resurfacing of highway. Funds to be supplemented by item C-55 of Act 10, SLH 1977 Special Session.	X53	TRN	561						
	Construction						1,510		1,510	
	Total Funding			TRN		D	1,510D		1,510D	
71.	Land Transportation Fac & SVCS Support Miscellaneous Drainage Improvements Statewide-drainage improvements to existing highway facilities.	X97	TRN	595						
	Land Acquisition					5	5		10	
	Design					15	15		30	
	Construction					80	80		160	
	Total Funding			TRN		100D	100D		200D	
73.	Miscellaneous Improvements to Existing Intersections and Highway Facilities, Statewide miscellaneous improvements to existing intersections and highway facilities nec- essary for traffic safety.	X98	TRN	595						



Land Acquisition		100	100	200
Design		235	235	470
Construction		1,815	1,815	3,630
Total Funding	TRN	625D	625D	1,250D
	TRN	1,525N	1,525N	3,050N

74. Land Transportation Planning, Statewide— X99 TRN 595

Road use, road life, economic studies, highway studies, research and advance planning of federal-aid and non federal-aid highway projects. Funds to be supplemented by item C-81 of Act 195, SLH 1975 and item C-51 of Act 226, SLH 1976.

Design		1,408	1,427	2,835
Total Funding	TRN	908D	977D	1,885D
	TRN	500N	450N	950N

**D. ENVIRONMENTAL PROTECTION**  
**POLLUTION CONTROL**

Solids, Liquids, Gases, and Noise

1. Sewerage Construction Grants Y01 HTH 840

Grants to county or state agencies for eligible water pollution control facilities conforming with the State WPC Plan authorized by Act 118/73. State may make grants to finance eligible design and/or construction costs of projects receiving federal grants. Unexpended balances in items A1 and A2, Act 68/71; item A1, Act 202/72; item D1, Act 218/74; and item D1, Act 226/76 shall be used for this purpose. (To be expended by DOH)

Design		1		1
Construction		5,999		5,999
Total Funding	HTH	6,000C	C	6,000C

**ACT 243**

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	<b>PRESERVATION AND ENHANCEMENT</b>									
	<b>Forests and Open Spaces</b>									
2.	Forest Fences Forest fences. Fences, for forest reserve and management unit boundary, fence. Standards: 5 strands—barbed or no. 7 galv. wire, 7. Wood posts buried 2.5 ft. Fencing can produce emergency grazing land (drought), noxious plant control by controlled grazing, protection of forest where presence of livestock is detrimental. Project applies 100% to forests and open spaces.		D04 LNR	402						
	Construction					50		31		81
	Total Funding			LNR		50C		31C		81C
3.	Outdoor Conservation Classroom Keahua Arboretm Construct outdoor classroom prepare interpretative displays and lesson materials establish self-guiding nature walks and establishment examples of early Polynesian plant introductions.		D14 LNR	402						
	Design					15				15
	Construction					10				10
	Total Funding			LNR		25C		C		25C
	<b>Coastal Areas</b>									
4.	Haleiwa Beach Restoration, Oahu Restoration of Haleiwa Beach, Oahu, by replenishment of sand. State required to replace sand on eroded beach areas.		130 TRN	903						

	Design			15		15
	Construction			65		65
	Total Funding	TRN		80C	C	80C
5.	Sand Island Shoreline Erosion Control, Oahu	140 TRN	903			
	Shoreline protection and erosion control of the eastern edge of Sand Island. Possible federal aid in the planning period is approximately \$405,000.					
	Design				15	15
	Construction				335	335
	Total Funding	TRN		C	350C	350C
<b>E. HEALTH</b>						
<b>PHYSICAL HEALTH</b>						
<b>Communicable Diseases</b>						
<b>Leprosy</b>						
1.	Install Filtration System and Make Other Related Improvements to Kalaupapa Water System	T04	HTH	111		
	Construct and install a filtration system and make other related improvements to enable the Kalaupapa water system to meet turbidity and bacteriological maximum contaminant level requirements under P.L. 93-523, Act 66, SLH 1977 and drinking water regulations of the Department of Health.					
	Design				5	5
	Construction				45	45
	Total Funding	AGS		C	50C	50C
<b>Emergency Medical Services</b>						
2.	Medicom Repeater Station, Hawaii	001	HTH	170		
	Plans and construction for a medicom repeater station at Naalehu to link the south end of Hawaii into the statewide Medicom System.					
	Design				5	5
	Construction				71	71
	Total Funding	AGS		C	76C	76C

**ACT 243**

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Hospital Care									
	Hilo Hospital									
3.	Hilo Hospital—Acute Care Center and Related Health Care Facilities at Hilo Hospital Planning and construction of a 150-bed acute care center, additions, renovations and remodeling of existing medical and ancillary facilities to include comprehensive outpatient public health clinics and facilities. Unexpended balances of section 91, items II-H-2-1 and II-H-2-3 of Act 195/75 may be used for this purpose.	C28	HTH	211						
	Design						1,999		1,999	
	Construction						1		1	
	Total Funding			AGS		C	2,000C		2,000C	
4.	Essential Repair & Maintenance of Hilo Hosp & Adjoining Structures 1. Exterior & Interior painting & reroofing of most of the existing buildings Hilo Hospital was last accomplished in & before 1963. 2. OSHA has recommended that the emergency generator be separated from the incinerator for safety reasons.	C32	HTH	211						
	Design						2		2	
	Construction						815		815	
	Total Funding			AGS		C	817C		817C	
5.	Evaluation of Electrical Requirement—Hilo Hospital Evaluation of electrical requirements in order to determine the margin of safety that exists	H09	HTH	211						

for employees, patients and equipment. To also inspect and repair old electrical circuits and wiring.

Construction		400		400
Total Funding	AGS	400C	C	400C

6. Kohala Hospital  
Kohala Hospital—Installation of Fire Sprinkle System H12 HTH 214

For installation in laundry, linen room and maintenance workshop. Use of galvanized pipes and approved sprinkling head. Pipes to be suspended from ceiling.

Construction		6		6
Total Funding	AGS	6C	C	6C

7. Kohala Hospital—Renovation of Therapy Bathroom H13 HTH 214

Renovate, expand and modernize existing therapy bathroom. Remove existing wall of adjoining linen room and utilize entire floor area as therapy bathroom. 256 sq. ft.; ceramic tile flooring to 112 sq. ft. expanded area; relocation of plumbing.

Construction		5		5
Total Funding	AGS	5C	C	5C

8. Kohala Hospital—Relocation of Linen Room H14 HTH 214  
Relocation due to adjoining therapy bathroom being expanded into entire area of existing linen room. 195 sq. ft. floor area; hollow block exterior wall; cement slab floor.

Construction		7		7
Total Funding	AGS	7C	C	7C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
9.	Kona Hospital Design & Construction to Extend Emergency Room at Kona Hospital. Extend emergency waiting room into outdoor garden area. Only 85 sq. ft. in existing area.	H25	HTH	215						
	Design						3		3	
	Construction						27		27	
	Total Funding			AGS		C	30C		30C	
10.	Kula Hospital Kula Sanatorium Modernization Correction of code violations and to modernize facility to conform to public health standards, phase I project—code violations completed. Phase II project—modernization project under- way.	D06	HTH	223						
	Design						183		183	
	Construction						4,020		4,020	
	Total Funding			AGS		C	4,203C		4,203C	
11.	Samuel Mahelona Memorial Hospital Centralized Hospital Laundry Site preparation improvement and installation of one tumbler to replace existing tumblers. Unexpended funds from item E-7 of Act 218/74 may be used for this project. \$14 transferred in.	G05	HTH	232						
	Construction						26		26	
	Total Funding			AGS		C	26C		26C	
12.	Maluhia Hospital Maluhia Hospital—Automatic Door Closers	H04	HTH	241						

Planning, purchasing and installing magnetic door closers in all patients' rooms connected to the automatic corridor system so as to close doors when the fire alarm is activated.

Design		5		5
Construction		75		75
Total Funding	AGS	80C	C	80C

13. Maluhia Hospital—Automatic Sprinklers  
Planning and installing automatic sprinklers throughout the hospital, to be connected to the existing system located only in storage rooms.
- H05 HTH 241

Design		5		5
Construction		100		100
Total Funding	AGS	105C	C	105C

14. Leahi Hospital  
Trotter Building Renovation  
Renovation to Trotter Building to enable building to be used for ICF or SNF purposes and at the same time qualify for participation in title XVIII and XIX programs. Building is only partially renovated and cannot be used in present condition.
- C50 HTH 242

Design		60		60
Construction			700	700
Total Funding	AGS	60C	700C	760C

15. Leahi Hospital, Oahu  
Plans and construction for additions, renovations, and remodeling of medical and ancillary facilities, including landscaping, lighting and equipment.
- Q02 HTH 242

Design		274		274
Construction		1		1
Total Funding	AGS	275C	C	275C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
16.	Leahi Hospital, Oahu Funds for the development of a facilities master plan for Leahi Hospital.		Q03 HTH 242							
	Design				200				200	
	Total Funding			AGS	200C		C		200C	
	MENTAL HEALTH									
17.	Hawaii State Hospital Renovation and Modernization of Hawaii State Hospital. Renovation and modernization of Hawaii State Hospital to meet all codes and standards re- quired of hospitals by the code enforcing agen- cies.		E02 HTH 430							
	Design						579		579	
	Total Funding			AGS		C	579C		579C	
	COMMUNITY HEALTH SERVICES									
18.	Drinking Water Quality Drinking Water Program Grant for Maui County Planning, design, and construction for water systems to comply with the requirements of the Safe Drinking Water Act, at 50% of the total eli- gible cost.		W01 HTH 621							
	Design				664		1		665	
	Construction				1		432		433	
	Total Funding			AGS	665C		433C		1,098C	



19.	Drinking Water Program Grant for the City and County of Honolulu Planning, design, and construction for water systems to comply with the requirements of the Safe Drinking Water Act, at 50% of the total eligible cost.	W02 HTH 621			
	Design		34		34
	Construction		1		1
	Total Funding	AGS	35C	C	35C
20.	Drinking Water Program Grant for Hawaii County Planning, design, and construction for water systems to comply with the requirements of the Safe Drinking Water Act, at 50% of the total eligible cost.	W03 HTH 621			
	Design		224	1	225
	Construction		1	1,034	1,035
	Total Funding	AGS	225C	1,035C	1,260C
21.	Drinking Water Program Grant for Kauai County Planning, design, and construction for water systems to comply with the requirements of the Safe Drinking Water Act, at 50% of the total eligible cost.	W04 HTH 621			
	Design		54	1	55
	Construction		1	264	265
	Total Funding	AGS	55C	265C	320C
	OVERALL PROGRAM SUPPORT				
	Public Health Nursing Services				
22.	Waipahu Health Bldg Air Conditioning 6 Parkin Install air conditioning in existing bldg and additional parking.	I20 HTH 902			
	Construction		100		100
	Total Funding	AGS	100C	C	100C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
<b>F. SOCIAL PROBLEMS</b>										
ASSURED STANDARD OF LIVING										
	Housing Assistance									
	Rental Housing Augmentation and Assistance									
1.	Sewer System Hookup—Kalaheo and Waimea	001	SOC	220						
	Installation of sewer system hookup—Kalaheo and Waimea.									
	Design						9		9	
	Construction						81		81	
	Total Funding			SOC		C	90C		90C	
2.	Site Improvements Nanakuli	002	SOC	220						
	Repave existing roadways with improved drainage swales install drywells—connect to city sewer system—install permanent walkways and curbs.									
	Design						12		12	
	Construction						103		103	
	Total Funding			SOC		C	115C		115C	
3.	Major Permanent Improvements—Palolo	003	SOC	220						
	Partial rewiring of electrical system—install new lights—upgrade existing lights—switches and devices—provide current interrupters.									
	Design						33		33	
	Construction						179		179	
	Total Funding			SOC		C	212C		212C	

4.	Improvements to Grounds Waimanalo, Oahu Install fencing along street and construct re- taining wall and fencing along rear of prop- erty.	004	SOC	220				
	Design						13	13
	Construction						112	112
	Total Funding				SOC	C	125C	125C
5.	Major Permanent Improvements Kuhio Park Terrace Construct hollow tile enclosure at rear of dwell- ing units—Kuhio Park Terrace.	005	SOC	220				
	Design						22	22
	Construction						193	193
	Total Funding				SOC	C	215C	215C
6.	Site Improvements—Lokahi, Hawaii Site improvements—new permanent drainage swales and new permanent walkways—Lokahi.	006	SOC	220				
	Design						2	2
	Construction						18	18
	Total Funding				SOC	C	20C	20C
7.	Site Improvements Kahekili Terrace Site improvements—install retaining wall— wooden fencing and outdoor recreational facil- ities—Kahekili Terrace.	007	SOC	220				
	Design						7	7
	Construction						58	58
	Total Funding				SOC	C	65C	65C
8.	Major Permanent Improvements—Koolau Replace door and add canopy at kitchen— laundry and entrance area.	008	SOC	220				
	Design						6	6
	Construction						52	52
	Total Funding				SOC	C	58C	58C

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9.	Major Permanent Improvements Kahekili Terrace Major permanent improvements—construct heater enclosures Kahekili Terrace.	009	SOC	220						
	Design						4		4	
	Construction						32		32	
	Total Funding			SOC		C	36C		36C	
10.	Major Permanent Improvements—David Malo Circle Major permanent improvements—construct heater enclosures David Malo Circle.	010	SOC	220						
	Design						2		2	
	Construction						16		16	
	Total Funding			SOC		C	18C		18C	
	Private Housing Augmentation Housing Loans to Native Hawaiians									
11.	Panaewa Residential Subdivision Panaewa, Hawaii to build roads, install utilities and survey and stakeout for 120 residence lots at Panaewa, Hawaii in three increments of 40 each.	H21	HHL	611						
	Construction						175		175	
	Total Funding			HHL		C	175C		175C	
12.	Waimanalo Residential Subdivision Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.	H24	HHL	611						

	Design			132		132
	Construction				2,185	2,185
	Total Funding		HHL	132C	2,185C	2,317C
13.	Nanakuli Road Improvements (Mauka)	H29	HHL	611		
	To improve and upgrade Mano, Kauwahi, Kawao, Piililaau and Haleakala Avenues to City and County standards approximately 9400 linear feet of roadway improvement, including sewers.					
	Construction			1,535		1,535
	Total Funding		HHL	1,535C	C	1,535C
14.	Nanakuli Road Improvements (Makai)	H31	HHL	611		
	To improve and upgrade Pohakunui, Launania, Keaulana, and Piliokahi Avenues to City and County standards—approximately 4100 linear feet of roadway improvements, and install adequate off-site drainage facilities.					
	Design			I		I
	Construction				1,350	1,350
	Total Funding		HHL	1C	1,350C	1,351C
15.	Paukukalo Residential Subdivision	H33	HHL	611		
	Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan.					
	Design			150		150
	Construction			750	750	1,500
	Total Funding		HHL	900C	750C	1,650C
16.	Kawaihae Residential Subdivision	H35	HHL	611		
	Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan for Kawaihae area.					
	Design			50		50
	Construction			200		200
	Total Funding		HHL	250C	C	250C

<b>Fiscal</b>		<b>Fiscal</b>		<b>Total</b>	
<b>Year</b>	<b>M</b>	<b>Year</b>	<b>M</b>	<b>Biennium</b>	<b>M</b>
<b>1977-78</b>	<b>O</b>	<b>1978-79</b>	<b>O</b>	<b>1977-79</b>	<b>O</b>
	<b>F</b>		<b>F</b>		<b>F</b>

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
17.	<b>Keaukaha Residential Subdivision</b> Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.				H36	HHL	611			
	Construction							300		300
	Total Funding				HHL		C	300C		300C
	<b>G. FORMAL EDUCATION</b>									
	<b>LOWER EDUCATION</b>									
	Instruction									
	Regular Instruction Program									
1.	<b>Relocate and Construct Portable Classrooms</b> Relocation and construction of portables each school year to meet enrollment shifts among schools, consolidation of schools, unforeseen emergencies, and to provide temporary facilities while new schools are being planned and/or under construction. These funds are also for secondary schools.				001	EDN	105			
	Design							160		160
	Construction							995		995
	Total Funding				AGS			1,155C	C	1,155C
2.	<b>Minor Improvements, Development of Master Plans, Removal of Architectural Barriers.</b> Minor additions, renovations and improvement to buildings and school sites for student safety and health protection of property and to improve the educational program project adjustment fund for projects requiring supplemental funds due to price increases. These funds are				002	EDN	105			

also for secondary schools.

	Design			25		25
	Construction			225		225
	Total Funding	AGS		250C	C	250C
3.	Lump Sum—Minor Land Acquisition	003	EDN 105			
	Acquisition of small parcels of land abutting existing school sites which are needed for better location of buildings and to provide better access which were not foreseen in the original construction. These funds are also for secondary schools.					
	Land Acquisition			120	1	121
	Total Funding	AGS		120C	1C	121C
4.	Jefferson Elementary School—Playfield and Landscaping	111001	EDN 105			
	Plans and construction of playfield improvements, landscaping, and demolition.					
	Design				17	17
	Total Funding	AGS		C	17C	17C
5.	Kaimuki High School—Music Building and Other Improvements	115001	EDN 105			
	Plans and construction of new music building and renovations and improvements of existing facilities.					
	Construction				250	250
	Total Funding	AGS		C	250C	250C
6.	Mililani Uka Elem, Oahu	216001	EDN 105			
	Plan & Construct Library.					
	Design			27		27
	Construction				648	648
	Total Funding	AGS		27C	648C	675C

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7.	Moanalua High, Oahu Construct four science classroom building and plan and construct utility system.	219002	EDN 105							
	Design					50			50	
	Construction					557			557	
	Total Funding			AGS		607C		C	607C	
8.	Pearl Harbor Elem, Oahu Improve Grds & Facil Improve drainage system and replace sewer system.	223003	EDN 105							
	Design					20			20	
	Construction						100		100	
	Total Funding			AGS		20C		100C	120C	
9.	Radford High, Oahu Plan & construct a team locker building. Funds to be supplemented from item F-65 of Act 155 SLH 1969.	226002	EDN 105							
	Design						8		8	
	Construction						307		307	
	Total Funding			AGS		C		315C	315C	
10.	Waialua Hi, Oahu Plan and construct industrial arts/practical arts building.	235001	EDN 105							
	Construction						548		548	
	Total Funding			AGS		C		548C	548C	
11.	Mililani 4th Elem, Oahu Plan & construct sixteen classrooms	241001	EDN 105							



	Construction					270	270
	Total Funding			AGS	C	270C	270C
12.	Aliamanu Crater Elem Oahu	242004	EDN	105			
	Ultimate site plan, plan & construct 1st increment.						
	Construction				2,116	557	2,673
	Total Funding			AGS	2,116C	557C	2,673C
13.	August Ahrens E.S.	300001	EDN	105			
	Sewer assessment, ground & site improvements for sewer & drainage.						
	Design				25		25
	Construction					135	135
	Total Funding			AGS	25C	135C	160C
14.	Campbell High School	302001	EDN	105			
	Renovation of industrial arts classrooms including equipment ground & site improvements.						
	Design				50		50
	Construction					363	363
	Total Funding			AGS	50C	363C	413C
15.	Ewa E.S.	303001	EDN	105			
	Sewer assessment & construct sewer connections, ground & site improvements.						
	Design				20		20
	Construction					142	142
	Total Funding			AGS	20C	142C	162C
16.	Ilima Intermediate School	307001	EDN	105			
	Plan & construct industrial arts classrooms, arts & crafts classroom, ground & site improvements. Funds authorized in Act 195/75, item 22 & in Act 226/76, item 19 may be used for this project.						
	Construction				90		90
	Total Funding			AGS	90C	C	90C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
17.	Ilima Intermediate School Plan & construct music classroom, ground & site improvements in conjunction with renovation of existing building caused by widening of Fort Weaver Rd.	307002	EDN	105						
	Design				30				30	
	Construction						200		200	
	Total Funding			AGS	30C		200C		230C	
18.	Iroquois Point E.S. Drainage, ground & site improvements.	308001	EDN	105						
	Design				6				6	
	Construction				34				34	
	Total Funding			AGS	40C		C		40C	
19.	Waianae High Sewer assessment, connection of cesspool serviced buildings to sewer trunk lines, ground & site improvement.	325002	EDN	105						
	Design				50				50	
	Construction						150		150	
	Total Funding			AGS	50C		150C		200C	
20.	Waianae Intermediate Plan and construct industrial education classrooms, renovations to existing industrial and practical arts classrooms and site improvements.	326001	EDN	105						
	Design				31				31	

	Construction				450	450
	Total Funding		AGS	31C	450C	481C
21.	Waipahu High	330001 EDN 105				
	Plan and construct general and special classroom building with teacher's workroom, ground and site improvements.					
	Construction				458	458
	Total Funding		AGS	458C	C	458C
22.	Waipahu High	330002 EDN 105				
	Plan and construct pedestrian under- and/or overpass to provide access to athletic field. Funds authorized by Act 218/74, item IE-137 may be used for this purpose.					
	Construction				200	200
	Total Funding		AGS	200C	C	200C
23.	Lualualei Uka E.S.	333001 EDN 105				
	Site selection, master planning & land acquisition.					
	Land Acquisition				480	480
	Design				20	20
	Total Funding		AGS	20C	480C	500C
24.	Lualualei Uka E.S.	333002 EDN 105				
	Plan & construct 1st increment: 16 classrooms, portable admin., library, serving kitchen, health room, playfield, parking, ground & site improvements.					
	Design				90	90
	Total Funding		AGS	C	90C	90C
25.	Nanakuli II E.S.	335002 EDN 105				
	Plans and construction for a 14 classroom building and ground and site improvements.					
	Construction				979	979
	Total Funding		AGS	C	979C	979C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
26.	Waianae II E.S. Site selection, master plan and land acquisition.	341001	EDN 105							
	Land Acquisition				480				480	
	Design				30				30	
	Total Funding			AGS	510C		C		510C	
27.	Waianae II E.S. Plan and construct 1st increment: 16 classrooms, portable admin library, health serving kitchen, playfield, parking ground and site improvements.	341002	EDN 105							
	Design				87				87	
	Construction						1,137		1,137	
	Total Funding			AGS	87C		1,137C		1,224C	
28.	Kailua High School Redevelopment plan.	412001	EDN 105							
	Design				40				40	
	Total Funding			AGS	40C		C		40C	
29.	Kalaheo High School Plan and construct athletic facilities and ground improvements.	415001	EDN 105							
	Construction				1,421				1,421	
	Total Funding			AGS	1,421C		C		1,421C	
30.	Hilo High School Hilo, Hawaii Plans and construction for improvements including wood and metal shop parking, the replacement of fire-damaged facilities and dem-	502002	EDN 105							

olition of the old building.

	Design				1		1
	Construction				2,403		2,403
	Total Funding			AGS	2,404C	C	2,404C
31.	Honokaa High & Elem School Hamakua Hawaii	507001	EDN 105				
	Plans and construction of industrial arts, wood shop and drafting classrooms, covered walkway, access road, equipment and appurtenances.						
	Construction				623		623
	Total Funding			AGS	623C	C	623C
32.	Kau High and Pahala Elem School Kau Hawaii	511001	EDN 105				
	Plan and construct PE locker shower facility and PE classrooms, equipment and appurtenances supplement to prior appropriations.						
	Construction				250		250
	Total Funding			AGS	250C	C	250C
33.	Konawaena Elem School North Kona Hawaii	517002	EDN 105				
	Plans and construction of elementary playground and paved playcourts (4) supplement to prior appropriations.						
	Construction				165		165
	Total Funding			AGS	165C	C	165C
34.	Konawaena High & Inter School No Kona Hi	518001	EDN 105				
	Plans and construction of 5 classroom building (4 regular, 1 arts & craft) covered walkway (75), workroom and toilets, equipment and appurtenances. Supplement to prior appropriations (-Act 218/74 item-104 reduce scope to 5 classrooms).						

**ACT 243**

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
	Design				52		52
	Construction					567	567
	Total Funding			AGS	52C	567C	619C
35.	Naalehu Elem School Kau, Hawaii Construction of elementary classroom building covered walkway: equipment and appurtenances. Supplement to prior appropriations.	521001	EDN 105				
	Construction				460		460
	Total Funding			AGS	460C	C	460C
36.	Pahoa High and Elem. School Puna, Hi Plans and construction—elementary classroom bldg. toilets, workroom, covered walkway: equipment and appurtenances, supplement to prior appropriation Act 226/76 item 91 E II F. Revise scope from 6 to 12 classrooms.	523002	EDN 105				
	Construction				961		961
	Total Funding			AGS	961C	C	961C
37.	Pahoa High & Elem School Puna Hawaii Plans and construction of bus loading shelter, covered walk, parking (25) and driveway.	523003	EDN 105				
	Design				20		20
	Construction					125	125
	Total Funding			AGS	20C	125C	145C
38.	Waiakea High School Hilo, Hawaii Plans and construction—phase IV secondary classroom building (science 2, business 2, regular 4); electronic shop; agriculture tech units;	525001	EDN 105				

covered walkway; equipment and appurtenances.

	Construction				1,306		1,306
	Total Funding		AGS		1,306C	C	1,306C
39.	Keauhou-Kailua Elementary School Kona Hawaii	532002	EDN	105			
	Plans and construction—land clearing, increment 1 classroom building; playground; equipment and appurtenances; parking.						
	Design					76	76
	Total Funding		AGS		C	76C	76C
40.	Baldwin High School, Maui	600001	EDN	105			
	Plan and construct art classrooms.						
	Construction				295		295
	Total funding		AGS		295C	C	295C
41.	Baldwin High School, Maui	600011	EDN	105			
	Redevelopment plans for the orderly improvements of existing facilities.						
	Design				40		40
	Total Funding		AGS		40C	C	40C
42.	Hana High and Elementary School, Maui	602001	EDN	105			
	Plan and construct classrooms.						
	Construction				763		763
	Total Funding		AGS		763C	C	763C
43.	Iao School, Maui	603001	EDN	105			
	Plan and construct classroom building.						
	Construction				354		354
	Total Funding		AGS		354C	C	354C
44.	Kihei School, Maui	608001	EDN	105			
	Plan and construct 8 classrooms.						
	Construction				469		469
	Total Funding		AGS		469C	C	469C

## APPROPRIATIONS (\$1,000's)

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45.	Kula Elementary School, Maui Classroom Building Plan and construct classroom building.	611001	EDN	105						
	Design					30			30	
	Construction						374		374	
	Total Funding			AGS	30C		374C		404C	
46.	Lihikai School, Maui Supplementary funds for plans and construction of classrooms.	614001	EDN	105						
	Construction					442			442	
	Total Funding			AGS	442C		C		442C	
47.	Maui High School, Maui Plan and construct special language arts center.	616003	EDN	105						
	Design						38		38	
	Total Funding			AGS	C		38C		38C	
48.	Molokai High & Inter School, Molokai Supplementary appropriation for construction of industrial arts/agriculture facilities.	618001	EDN	105						
	Design					8			8	
	Construction					610			610	
	Total Funding			AGS	618C		C		618C	
49.	Molokai High & Inter School, Molokai Plan and construct playfield and parking.	618002	EDN	105						
	Construction					155			155	
	Total Funding			AGS	155C		C		155C	



50.	Wailuku Elem School, Maui Supplement prior appropriation for construction of classroom building and land acquisition.	623001	EDN	105			
	Land Acquisition				100		100
	Construction				527		527
	Total Funding				627C	C	627C
51.	Kapaa High and Inter Construct 13-classroom with teacher work center and toilets.	704001	EDN	105			
	Design				70		70
	Construction					1,021	1,021
	Total Funding				70C	1,021C	1,091C
52.	Kekaha School Plan and construct 8-classroom building with teacher work center and toilets.	707002	EDN	105			
	Design				56		56
	Construction					849	849
	Total Funding				56C	849C	905C
53.	Waimea High—Plan and Construct Industrial Art Building to Supplement Prior Appropriation	712005	EDN	105			
	Construction					1,000	1,000
	Total Funding				AGS	C	1,000C
	Instructional Administration and Support School Administration						
54.	Mililani Uka Elem, Oahu Plan & construct administration building.	216002	EDN	203			
	Construction					293	293
	Total Funding				AGS	C	293C
55.	Moanalua High, Oahu Plan & construct administration building.	219001	EDN	203			
	Design					43	43
	Total Funding				AGS	C	43C

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56.	Waianae High Renovate and expand administrative facilities, ground and site improvements.	325001	EDN 203							
	Construction						250		250	
	Total Funding			AGS		C	250C		250C	
57.	Keauhou-Kailua Elem North Kona Hawaii Acquisition of lands and master planning.	532001	EDN 203							
	Land Acquisition						400		400	
	Total Funding			AGS		C	400C		400C	
58.	Kalaheo School Plan and construct administration building including visitor parking and staff parking.	702001	EDN 203							
	Design						19		19	
	Total Funding			AGS		C	19C		19C	
	Instructional Media									
59.	Pearl City High Plan & construct library ground & site improvements.	321001	EDN 204							
	Construction				1,137				1,137	
	Total Funding			AGS	1,137C		C		1,137C	
60.	Laie Elementary, Oahu Plans and construct library.	420001	EDN 204							
	Construction						465		465	
	Total Funding			AGS		C	465C		465C	

61.	Waiahole Elementary School, Oahu Demolition of old classrooms and administration building and conversion of classrooms to temporary administration and library facilities.	427001 EDN 204				
	Construction			165		165
	Total Funding		AGS	165C	C	165C
62.	Konawaena Elem School S. Kona Hawaii Plan and construct elementary library facility supplement to prior appropriations equipment & appurtenances.	517001 EDN 204				
	Construction			160		160
	Total Funding		AGS	160C	C	160C
63.	Waiakea High School, Hilo, Hawaii Plans and construction—phase IV—library; parking; equipment and appurtenances; covered walkway.	525002 EDN 204				
	Construction				1,043	1,043
	Total Funding		AGS	C	1,043C	1,043C
	Student Activities					
64.	Waimea High Plan and construct physical education locker/shower and athletic lockers including 2-classrooms.	712003 EDN 207				
	Design			43		43
	Construction				582	582
	Total Funding		AGS	43C	582C	625C
	Institutional Administration and Support					
	District Administration					
65.	State and District Office Renovate existing school facilities for state and district office use.	0006 EDN 304				
	Design			25		25
	Construction			275		275
	Total Funding		AGS	300C	C	300C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
66.	School Food Services Aliamanu Crater El, Oahu Plan and construct kitchen/dining bldg.	242001	EDN 305							
	Design				63				63	
	Construction						863		863	
	Total Funding			AGS	63C		863C		926C	
67.	Kahuku High and Elementary, Oahu Plan and construct manufacturing kitchen and dining room.	410002	EDN 305							
	Construction				835				835	
	Total Funding			AGS	835C		C		835C	
68.	Pahoa High and Elem Pahoa, Hawaii Plans and construction of cafetorium, covered walkway parking (50), equipment and appurtenances, and renovation of old cafeteria to classroom. Supplement to prior appropriations.	523001	EDN 305							
	Construction				175				175	
	Total Funding			AGS	175C		C		175C	
	Physical Plant Operations & Maintenance— EDN									
69.	Waimea High Plan and construct integrated utility system.	712004	EDN 307							
	Design				42				42	
	Construction						304		304	
	Total Funding			AGS	42C		304C		346C	

Public Service  
Public Libraries

70. New State Library Central Facility Building 801001 EDN 407  
Plan and construct new state library central  
facility building.

Design			500	500
Total Funding	AGS	C	500C	500C

HIGHER EDUCATION

University of Hawaii, Manoa  
Instruction—UOH, Manoa

71. Crawford Hall, Renovation and Moderniza- 023 UOH 101  
tion

University of Hawaii, Manoa Campus  
Crawford Hall, renovation and modernization  
University of Hawaii, Manoa Campus  
Renovations to accommodate new classrooms  
and modernization to update obsolete facilities  
by improving lighting, natural ventilation and  
circulation.  
Approximately 24,600 GSF.

Design			82	82
Total Funding	AGS	C	82C	82C

72. Improvements to Physical Education Facili- 028 UOH 101  
ties

University of Hawaii, Manoa Campus  
Improvements to physical education facilities  
University of Hawaii, Manoa Campus  
Incremental planning and construction of im-  
provements to provide adequate outdoor facili-  
ties for the physical ed., intramurals, athletic  
and recreational programs.

Design			26	26
Construction			274	274
Total Funding	AGS	C	300C	300C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
73.	Physical Education Facilities University of Hawaii, Manoa Campus Physical education facilities University of Hawaii, Manoa Campus Construction of buildings to provide facilities to meet the program needs of the physical edu- cation department, intramurals and athletics as well as recreational.	030	UOH	101						
	Construction						10,230		10,230	
	Total Funding			AGS		C	10,230C		10,230C	
74.	Medical School Development Medical school development, University of Ha- waii at Manoa development of facilities for a 4-year medical school. Facilities to be devel- oped at Kuakini Hospital and at other commu- nity hospitals in accordance with affiliation agreements and federal grant requirements.	039	UOH	101						
	Design					28			28	
	Construction					100	272		372	
	Total Funding			AGS		128C	272C		400C	
75.	Kuykendall Hall Air Conditioning University of Hawaii, Manoa Campus Kuykendall Hall air conditioning University of Hawaii, Manoa Campus Installation of air conditioning system to re- duce noise levels in classrooms, including nec- essary renovations to ceilings and windows.	040	UOH	101						
	Construction					1,024			1,024	
	Total Funding			AGS		1,024C		C	1,024C	

76.	Hawaii Hall Renovations and Modernization University of Hawaii, Manoa Campus Refurbishing of facilities to meet current health and safety rules and regulations and current uses. Approximately 22,000 ASF; 37,000 GSF.	041 UOH 101				
	Design				115	115
	Total Funding		AGS	C	115C	115C
77.	Agricultural Sciences Facilities, Phase 2 University of Hawaii, Manoa Campus Plans for facilities to house the programs of agronomy and soil science, food science and technology, food and nutritional sciences and agricultural biochemistry. Unexpended bal- ances from item G-III, section 72 of Act 218, session laws of Hawaii 1974 shall be used for this purpose.	043 UOH 101				
	Design				1	1
	Total Funding		AGS	C	1C	1C
78.	Swimming Pool Complex Completion University of Hawaii, Manoa Campus Completion of swimming pool complex University of Hawaii, Manoa Campus Plans and construction of locker-showers, of- fices, classroom-meeting room, training room, etc. to complete the State Swimming Pool Complex.	049 UOH 101				
	Design				120	120
	Total Funding		AGS		120C	120C
79.	Law School Development University of Hawaii, Manoa Campus Law school development University of Hawaii, Manoa Campus Construction of classrooms, seminar rooms, offices, library and other appurtenant facilities	052 UOH 101			C	

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	required by the law school. Approx. 52,600 ASF; 84,160 GSF.									
	Construction						6,971		6,971	
	Total Funding			AGS		C	6,971C		6,971C	
80.	Oceanographic and Marine Laboratory University of Hawaii, Manoa Campus Oceanographic and marine laboratory University of Hawaii, Manoa Campus Construction of offices, classrooms, laborato- ries for the Department of Oceanography, Dean of Marine Programs, and Sea Grant Col- lege. Approx. 95,500 GSF.	113	UOH 101							
	Construction						5,366		5,366	
	Total Funding			AGS		C	5,366C		5,366C	
	Organized Research—UOH, Manoa									
81.	Marine Expeditionary Center, Phase I University of Hawaii, Snug Harbor Marine Expeditionary Center, completion of phase I University of Hawaii, Snug Harbor Completion of the phase I site work and build- ing, including purchase of furniture and equip- ment.	116	UOH 102							
	Construction				260				260	
	Total Funding			AGS	260C		C		260C	



82.	HIG Building, Structural Repairs University of Hawaii, Manoa Campus HIG building structural repairs University of Hawaii, Manoa Campus Structural repairs to upgrade the Hawaii Institute of Geophysics building to meet building code requirements.	120 UOH 102				
	Design			20		20
	Construction			230		230
	Total Funding	AGS	C	250C		250C
83.	MEC—Core Storage Building University of Hawaii, Snug Harbor Marine expeditionary center, core storage building University of Hawaii, Snug Harbor Construction of a core storage building to house cores presently stored at Keehi and those being transferred to the University from Eniwetok, and temporarily in Army warehousing.	122 UOH 102				
	Construction		663			663
	Total Funding	AGS	663C	C		663C
84.	Mauna Kea Obs. Mid-Level Facilities, Phases 1 and 2. Mauna Kea observatory, mid-level facilities, phases 1 & 2 University of Hawaii, Institute for Astronomy Plans and construction of site work, housing, office and laboratory facilities on the slopes of Mauna Kea to accommodate observatory personnel.	123 UOH 102				
	Design		62			62
	Construction			1		1
	Total Funding	AGS	62C	1C		63C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
85.	HIMB, New Electrical System University of Hawaii, Coconut Island New electrical system for HIMB facilities on Coconut Island. Installation of underwater ca- bles, transformer station, and re-wiring of HIMB facilities, to take care of expanding needs and replacement of old, deteriorating wiring.	125	UOH	102						
	Construction				600				600	
	Total Funding			AGS	600C		C		600C	
86.	Improvements to the Mauna Kea Observatory Access Road, Mauna Kea, Hawaii Access road improvements from Hale Pohaku to the summit to meet minimum health and safety standards.	131	UOH	102						
	Design						36		36	
	Construction						364		364	
	Total Funding			AGS		C	400C		400C	
87.	Waialeale Livestock Research Facilities, Oahu, University of Hawaii Plans, construction and equipment for im- provements to livestock and feed facilities, in- cluding renovations to existing facilities and/or construction of new facilities. The expenditure of state funds would be subject to the availa- bility of federal funds.	669	UOH	102						
	Design						700		700	
	Total Funding			AGS		C	700C		700C	

88.	Kohala Livestock Facility, Kohala, Hawaii University of Hawaii Construction of facilities to provide for research and development programs on integrated pasture-feedlot management system to finish beef cattle. The expenditure of state funds would be subject to the availability of federal funds.	676 UOH 102				
	Construction				66	66
	Total Funding	AGS	C		66C	66C
89.	Tropical Crop Facilities in Hilo, Hawaii for the University of Hawaii Plans for offices, laboratories and special facilities to accommodate the crop programs of the Hawaii branch station. The expenditure of state funds would be subject to the availability of federal funds.	681 UOH 102				
	Design				95	95
	Total Funding	AGS	C		95C	95C
90.	Tropical Aquaculture Center of Hawaii. Plans, design & construction of a tropical aquaculture center to provide facilities for research, development and demonstration of aquaculture projects, including equipment and ponds. No matching funds required.	682 UOH 102				
	Land Acquisition				1	1
	Design				149	149
	Construction				1,100	1,100
	Total Funding	AGS	C		1,250C	1,250C
	Academic Support—UOH, Manoa					
91.	Sinclair Library Renovations University of Hawaii, Manoa Campus Sinclair Library renovations University of Hawaii, Manoa Campus	177 UOH 104				

**ACT 243**

[illegible]

noa campus and Manoa based programs (research centers and other support areas).

	Design		42	42	84
	Construction		458	458	916
	Total Funding	AGS	500C	500C	1,000C
94.	University of Hawaii, Hilo Instruction—UOH, Hilo Classroom Building No. 4 Classroom Building No. 4 University of Hawaii at Hilo, Hilo College providing for plans and construction, furniture, and equipment for a classroom building to include language laboratories, audio-visual room and classrooms for social sciences and humanities.	303 UOH 211			
	Design		80		80
	Construction		220	310	530
	Total Funding	AGS	300C	310C	610C
95.	College of Agriculture Facilities Construction of College of Agriculture, UOH, Hilo Campus.	315 UOH 211			
	Construction			100	100
	Total Funding	AGS	C	100C	100C
96.	Hawaii CC Relocation, Phase II, UOH Hilo Hawaii CC Relocation. Plans, construction, furniture and equipment for the incremental relocation of Hawaii Community College programs to the Hilo College Campus.	318 UOH 211			
	Design			240	240
	Total Funding	AGS	C	240C	240C
97.	Academic Support—UOH, Hilo Learning Resources Center University of Hawaii at Hilo, Hilo College	385 UOH 214			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Construction of a resources center including library, instructional resources, information systems, bookstore, and skills development facilities. Approx 165,000 GSF; 110,000 ASF.									
	Construction						2,943		2,943	
	Total Funding			AGS		C	2,943C		2,943C	
98.	Institutional Support--UOH, Hilo Minor CIP Minor CIP University of Hawaii at Hilo, Hilo College Plans and construction of minor improvements, including construction of new facilities as well as modifications to existing facilities. Modifications are necessary to make possible more efficient use of existing spaces and to create new classroom spaces to accommodate changes in programs.	432	UOH	216						
	Design					9			9	
	Construction					91			91	
	Total Funding			AGS		100C		C	100C	
99.	General Utilities, Roads & Site Improvements General utilities, roads, and site improvements University of Hawaii at Hilo, Hilo College Incremental construction of utilities for major projects, removal, demolition, or relocation of structures, connection of roadways to improve circulation and safety, and to improve various areas for maximum utilization of space.	433	UOH	216						

	Design		12	12	24
	Construction		138	138	276
	Total Funding	AGS	150C	150C	300C
	Honolulu Community College				
	Instruction—Honolulu Community College				
100.	Honolulu CC—Modernization and Renovation	A09 UOH 301			
	Modernization and renovation of existing facilities, Honolulu Community College				
	Plans, construction, furniture and equipment to modify, renovate and improve existing facilities to meet program requirements and provide for the expansion of the college programs.				
	Design			10	10
	Construction			90	90
	Total Funding	AGS	C	100C	100C
101.	Honolulu CC—Auto-Body Shop	A13 UOH 301			
	Auto-Body Shop—Honolulu Comm Coll.				
	Plans, construction, furniture and equipment for a building to provide shops, classrooms, offices and special facilities for the auto-body repair program. Unexpended balances in Act 226, SLH 1976, item IVA-G-96 may be used for this purpose.				
	Construction			306	306
	Total Funding	AGS	C	306C	306C
	Institutional Support—Honolulu CC				
102.	Honolulu CC—Site Development	A74 UOH 305			
	Site development, Honolulu Community College				
	Demolition of existing facilities, clearing, grading, improvements to drainage and utilities, landscaping additional parking facilities, and service roadways, and outdoor physical education facilities.				

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Design					36			36	
	Construction					389			389	
	Total Funding			AGS		425C		C	425C	
103.	Kapiolani Community College Institutional Support—Kapiolani CC Kapiolani CC—New Campus Development New campus at Fort Ruger—Plans, construction furniture and equipment for the development of a new campus. Development to consist of site development, science laboratories, classrooms, offices, learning-resources center campus center, vocational and business education facilities, and physical education facilities.  Design Total Funding	B04	UOH 315					637 637C	637 637C	
104.	Leeward Community College Instruction--Leeward Community College Leeward CC—Gen. Instructional Fac. J-2 General instructional facilities J-2, Leeward Comm. Coll. plans, construction, furniture and equipment for building J-2. Approximate area 22,000 sq. ft.  Design Total Funding	L04	UOH 321			150 150C		C	150 150C	
105.	Leeward Comm. Coll Renovations of Exist. Fa Renovations of existing facilities, Leeward Community Colleg	L05	UOH 321							



Conversion, modifications renovations, and improvements to facilities.

	Design			10	10
	Construction			90	90
	Total Funding	AGS	C	100C	100C
106.	Leeward CC—Engr. Trades Bldg. D-3	L06	UOH	321	
	Supplemental appropriations for the plans construction, furniture & equipment to provide shops, laboratories, classrooms for the vocational education programs.				
	Construction			370	370
	Total Funding	AGS		370C	370C
	Maui Community College				
	Student Services—Maui Community College				
107.	Maui CC—Student Housing	M63	UOH	504	
	Maui Community College—Student Housing Plans, construction and furnishing for approximately 120-bed student housing complex.				
	Construction			750	750
	Total Funding	AGS		750C	750C
	Institutional Support—Maui Community College				
108.	Maui CC Minor Capital Improvements	M50	UOH	505	
	Minor capital improvements—Maui Community College				
	Plans and construction furniture and equipment for new construction and modifications and improvements to existing facilities.				
	Design			10	20
	Construction			90	180
	Total Funding	AGS		100C	200C
109.	Maui CC—Site Development	M75	UOH	505	
	Site development—Maui Community College				
	Clearing, grading and landscaping of unde-				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	veloped lands, including additional parking, roadways, lighting, utilities and improvements to Kahului Beach Road.									
	Design				10				10	
	Construction				240				240	
	Total Funding			AGS	250C			C	250C	
110.	Kauai Community College Instruction—Kauai Community College Kauai CC—Instructional Facilities Kauai Community College—Instructional facilities Plans and incremental construction of instructional facilities, including classrooms, special classroom laboratories, shops, offices, support facilities, furniture and equipment for the new campus at Puhi.		K06	UOH 601						
	Design				50				50	
	Construction				350				350	
	Total Funding			AGS	400C			C	400C	
111.	Institutional Support—Kauai CC Kauai CC—Site Development Kauai Community College—Site Development Plans and incremental construction for the development of the new campus, including clearing, grading, utilities, roadways, parking, landscaping and athletic fields.		K81	UOH 605						
	Design				40				40	
	Construction				460				460	
	Total Funding			AGS	500C			C	500C	

## H. CULTURE AND RECREATION

### CULTURAL ACTIVITIES

Collections, Historical Sites and Studies

Hawaii Public Broadcasting

1. Feasibility Study and Plans for Modifying Studio Production Facilities RT5 REG 701

Commission a design study and architectural plans to determine feasibility of adding a small second studio to increase efficiency and economy of local production activities.

Design

Total Funding

	25		25
AGS	25C	C	25C

2. Relocation of Mt. Kahili Translator to Higher Site RT7 REG 701

Relocation of Mt. Kahili (Kauai) translator to higher site to provide for improved public reception by all Kauai residents.

Design

Construction

Total Funding

		34	34
		216	216
AGS	C	250C	250C

3. Extend Statewide Public Television Transmission Coverage RT46 REG 701

Extend statewide public television transmission by installing translators on islands of Oahu, Hawaii and Kauai.

Design

Construction

Total Funding

	25		25
	787		787
AGS	278C	C	278C
AGS	534N	N	534N

4. LNR—Historical & Archaeological Places Iolani Palace Restoration FI1 LNR 801

Incremental research, planning, preservation, restoration and interpretation of Iolani Palace, barracks, grounds, and appurtenances as a historic restoration complex.

		APPROPRIATIONS (\$1,000's)					
Item No.	Program and Capital Project	Cap. Proj. No.	Program ID No.	Exp. Agy.	Fiscal Year 1977-78 M O F	Fiscal Year 1978-79 M O F	Total Biennium 1977-79 M O F
	Design				5	60	65
	Construction				495	760	1,255
	Total Funding			LNR	500C	820C	1,320C
5.	Russian Fort	F12	LNR	801			
	Restoration of Fort Elizabeth, a national historical landmark portraying a Russian episode in Hawaii's history. Incremental planning and research, stabilization, restoration, construction and interpretive features including public access and use of facilities.						
	Design				100		100
	Construction					150	150
	Total Funding			LNR	100C	150C	250C
6.	Lapakahi North Kohala State Park Complex	F13	LNR	801			
	Land acquisition, planning, research, and incremental development of the North Kohala archaeological and historic sites. Includes Lapakahi, the second most important archaeological area in the State, offering an opportunity for public interpretation of early Hawaiian fishing & farm system. Lapakahi to also be orientation center for King Kamehameha's birth place, heiau & other features in the area.						
	Land Acquisition				200	300	500
	Design				100	100	200
	Construction				150	300	450
	Total Funding			LNR	450C	700C	1,150C

7. Kealakekua Bay F14 LNR 801

Incremental acquisition, planning and research for a major park comprising the most important historic and archaeological place in the entire state. Planning and research will be followed by park development, continued research and interpretive facilities. The project is timed so that the key facilities will be in operation by 1978 the 200th anniversary of Captain Cook's landing.

Land Acquisition		500	500	1,000
Design		150	140	290
Total Funding	LNR	650C	640C	1,290C

8. Royal Mausoleum—Nuuanu Petroglyphs F15 LNR 801

Acquisition of additional land for public access and some archaeological features. Plans and research of site including interpretation of historic and archaeological values in Nuuanu Valley. Renovation of chapel and other improvements at Royal Mausoleum State Monument.

Land Acquisition			100	100
Design			150	150
Construction			250	250
Total Funding	LNR	C	500C	500C

9. Ililiopae Heiau F16 LNR 801

Large, spectacular heiau with scenic views of nearby fishponds, access road, and parking required as well as some landscaping and picnic facilities. Trail Hub Park for Wailau Trail.

Land Acquisition			100	100
Total Funding	LNR	C	100C	100C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
10.	State Capitol Landscaping, including replacement of sprinkler system and lawn improvement.	F18	LNR	801							
	Design					15				15	
	Construction					180				180	
	Total Funding				LNR	195C			C	195C	
11.	Washington Place Replace existing equipment shed. Screen rubbish barrels. Replace-repair front sidewalk. Eventually an interpretive program should be developed. The responsibilities of this project are currently limited to the grounds.	F25	LNR	801							
	Design					10				10	
	Construction					100				100	
	Total Funding				LNR	110C			C	110C	
12.	Heeia Fishpond Acquisition of Heeia Fishpond and Matson Point for an educational/cultural center.	F27	LNR	801							
	Land Acquisition							710		710	
	Design					150		160		310	
	Total Funding				LNR	150C		870C		1,020C	
13.	Kamehameha Post Office Restoration Preservation and restoration with interior alteration and modification.	H12	LNR	801							
	Construction							300		300	
	Total Funding				LNR		C	300C		300C	

14.	Hale Pa'i (Printing House) Restoration Preservation and restoration with replacement of rotted timbers and repainting of masonry.	H13 LNR 801				
	Construction				100	100
	Total Funding	LNR	C		100C	100C
15.	Other Natural Features Iao Valley State Park Incremental development per master plan.	F32 LNR 803				
	Construction			70		70
	Total Funding	LNR	70C	C		70C
16.	Lava Tree State Monument Land acquisition to protect the integrity of the existing park from probable urban encroach- ment. Replace restroom. Install watersystem and generally refurbish park and interpretive program.	F34 LNR 803				
	Design				10	10
	Total Funding	LNR	C		10C	10C
17.	Diamond Head Master plan of this existing park. Anticipated improvements may include trail development, parking, landscaping and an interpretive pro- gram. Construction of restroom and other im- mediate needs.	F37 LNR 803				
	Design			30		30
	Construction				350	350
	Total Funding	LNR	30C		350C	380C
18.	Waimea Canyon State Park Interpretive program. Expansion of lookout and trail development. Master plan.	F39 LNR 803				
	Design			60		60
	Total Funding	LNR	60C	C		60C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
RECREATIONAL ACTIVITIES										
Outdoor Activities										
Inland-Based Activities										
19.	Hawaii Game Management Facilities	C02	LNR	804						
	Incremental development of game management facilities including construction of hunter access roads, game water units, game range improvements, exclosures, hunter facilities, signs and markers.									
	Construction				25				25	
	Total Funding			LNR	25C		C		25C	
20.	Honolulu Game Management Facilities	C04	LNR	804						
	Incremental development of game management facilities including planning, designing and construction of hunter access roads, game water units, game range improvements, enclosures, hunter facilities signs and markers, and facilities for wildlife management operations.									
	Construction						5		5	
	Total Funding			LNR		C	5C		5C	
21.	Wahiawa Public Fishing Area Artificial Aeration System Installation	C14	LNR	804						
	Installation of permanent artificial aeration system in the Wahiawa public fishing area to prevent massive fish kills during periods of low water.									
	Construction						20		20	
	Total Funding			LNR		C	20C		20C	



22.

## Forest Trails

Forest trails. Trails are constructed, on an incremental basis, primarily by forestry with summer students. Trails are at least 2 feet wide and cleared for easy hiking. Trails provide remote outdoor recreation including hunting, fire and pest control access, and occasionally route for rescue operations. Breakdown by program: other inland-based outdoor activities—75%, forests and open space 25%.

Land Acquisition

Design

Construction

Total Funding

D02 LNR 804

	40		40
	4		4
	27	12	39
LNR	71C	12C	83C

23.

## Forest Trail Shelters

Trail shelters. Trail shelters are constructed, on an incremental basis, primarily by forestry with summer students. Shelter units are open sides, 12×16 feet fiberglass roof with a table, 2 benches, and a pit toilet. Units are purchased prefabricated. Shelters are for wilderness picnic, hikers' rest stops, campsite for trail maintenance crew. Breakdown by programs: forest recreation—90%, forests & open spaces 10%.

Construction

Total Funding

D03 LNR 804

	36	12	48
LNR	36C	12C	48C

24.

## Kokee State Park

Continued park development and replacement of older facilities.

F46 LNR 804

Design

Construction

Total Funding

	50	15	65
	250		250
LNR	300C	15C	315C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
25.	Keaiwa Heiau State Recreation Area Improvements, and repairs to this existing park, including new roofs, replace entrance gate, campground drainage and rubbish storage area. Develop a simple interpretive display for the heiau.	F48	LNR	804						
	Construction							60		60
	Total Funding			LNR		C		60C		60C
26.	Wailua Cove Develop an outstanding scenic park with several waterfalls, and lush vegetation in a coastal setting. The area contains important historic and biologic values as well. The site contains about 120 acres of private land, largely undevelopable plus about 110 acres of state owned land. Initial funding is proposed for land acquisition of key areas research of important values to be preserved and park plans.	F49	LNR	804						
	Land acquisition							140		140
	Total Funding			LNR		C		140C		140C
27.	Kalopa State Recreation Area Construction of camp grounds, vacation cabins and caretaker's cabin also roads to park.	F53	LNR	804						
	Design							10		10
	Total Funding			LNR		C		10C		10C
28.	Wailua River State Park Land acquisition of inholdings. Archaeological-biological research, development of interpre-	F54	LNR	804						

tive program and facilities according to master plan.

	Land Acquisition			300	300
	Design			50	50
	Total Funding	LNR	C	350C	350C
29.	Kahana Valley State Park	F57	LNR 804		
	Incremental development including historic restoration, water features, and other recreation and cultural and heritage opportunities per master plan.				
	Design		25	50	75
	Construction		250		250
	Total Funding	LNR	275C	50C	325C
30.	Waimanalo Foothills State Recreation Area	F62	LNR 804		
	Plans for development of system of hiking and riding trails with small trailhead parks with picnicking facilities incremental development and interpretation of natural and historical values.				
	Design			10	10
	Total Funding	LNR	C	10C	10C
31.	Queens Bath Kalapana Area	F65	LNR 804		
	Land acquisition and first phase development of this coastal-archaeological area.				
	Design			40	40
	Total Funding	LNR	C	40C	40C
32.	Manuka State Wayside	F69	LNR 804		
	Interpretive program for existing wayside park with a plant collection in a kipuka. Develop a new water system and restroom.				
	Design			20	20
	Total Funding	LNR	C	20C	20C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agcy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
33.	Sacred Falls State Park Plans and construction for incremental development of camping, historic, recreational and other park facilities.	H45	LNR	804						
	Design						70		70	
	Construction						600		600	
	Total Funding			LNR		C	670C		670C	
34.	Salt Lake District Park Land acquisition and development for a community park, development to be undertaken by the county.	H46	LNR	804						
	Land Acquisition				1,000		1,000		2,000	
	Total Funding			LNR	1,000C		1,000C		2,000C	
35.	Kona Airport Park Incremental design and construction for shoreline park development as determined by park planning now underway.	H47	LNR	804						
	Design					50			50	
	Construction						550		550	
	Total Funding			LNR	50C		550C		600C	
36.	Dot-Ocean-Based Activities Waianae Boat Harbor Oahu Incremental development of a new all weather marina in the area adjacent to Waianae Regional Park, including berthing and shore facilities and other improvements. Possible federal aid anticipated in the planning period is approximately \$1,943,000.	050	TRN	801						

	Design			20	130	150
	Construction			80	1,160	1,240
	Total Funding		TRN	100D	1,290D	1,390D
37.	Statewide Improvements to Boating Fac.	01S	TRN 801			
	Improvements to existing boat harbors and boat refuge areas. Including land acquisition and studies of possible new sites.					
	Design			10	10	20
	Construction			40	40	80
	Total Funding		TRN	50D	50D	100D
38.	Honokohau Boat Harbor Hawaii	02H	TRN 801			
	Incremental development of Honokohau Boat Harbor including dredging, moorings and shore facilities, and other improvements.					
	Construction				950	950
	Total Funding		TRN	C	950C	950C
39.	Statewide Sewage System Improv to Boats Fac	02S	TRN 801			
	Study and implementation of a statewide sewage system for recreational harbors and boating facilities. Implementation costs are dependent upon study findings and recommendations.					
	Design				5	5
	Construction				22	22
	Total Funding		TRN	D	27D	27D
40.	Statewide Boat Launching Fac. Improv.	03S	TRN 801			
	FY77-Mics. Statewide improv. to boat launch. Fac. includ. Waimanalo, Barbers Pt., South Kona, Kihei, Keaukaha and Milolii, & construction at Nawiliwili & Mala. Beyond FY77-design & constr. of boat launch fac. at Waimanalo, Barbers Pt., S. Kona, Kihei, Waianae, Hanalei, Kawaihae, Sand Is., Pearl Harbor, Keaukaha,					

APPROPRIATIONS (\$1,000's)									
Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agcy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	Total Biennium 1977-79	M O F
	Kailua, Oahu N. Shore, E. Molokai, Puna Ka'u, La Perouse, Keehi Lagoon, Kikiaola, Heeia-kea, Kaunakakai.								
	Design				70		100	170	
	Construction				780		550	1,330	
	Total Funding			TRN	850C		650C	1,500C	
41.	Kawaihae Boat Harbor Hawaii	06H	TRN	801					
	Planning and incremental construction of a boat harbor offshore from the existing coral stockpile, including dredging, protective structures, moorings and shore facilities and other improvements. Possible federal aid anticipated in the planning period is approximately \$832,000.								
	Design						138	138	
	Construction						859	859	
	Total Funding			TRN	C		708C	708C	
				TRN	D		289D	289D	
42.	LNR-Ocean-Based Activities	F70	LNR	805					
	Sand Island State Recreation Area								
	Incremental development of beach park, plans and construction.								
	Design						450	450	
	Construction						1,500	1,500	
	Total Funding			LNR	C		1,950C	1,950C	
43.	Waimanalo Bay State Recreation Area	F71	LNR	805					
	Incremental development of beach park and camping facilities including landscaping.								

	Construction		230	500	730
	Total Funding	LNR	C	500C	500C
		LNR	230N	N	230N
44.	<b>Makua-Kaena Point State Park</b>	F72 LNR	805		
	Incremental acquisition of private lands, development of beach parks from Makua to Moku-leia. Also includes funds for temporary management of shoreline areas to control existing public use.				
	Land Acquisition		500	2,000	2,500
	Total Funding	LNR	500C	2,000C	2,500C
45.	<b>Makena-Laperouse State Park</b>	F73 LNR	805		
	Incremental acquisition of land and development of master plan. Protection of archaeological and biological features. Eventual expansion of the park to interpret these features and expand recreation opportunities.				
	Land Acquisition		800	800	1,600
	Design		25	25	50
	Construction			510	510
	Total Funding	LNR	825C	1,335C	2,160C
46.	<b>Haena Beach State Park</b>	F74 LNR	805		
	Incremental acquisition of land and incremental development as overnight campground, picnic area, swimming beach, hiking trails. Development to be low density and rustic so as not to detract from values of site. Sufficient parking for hikers.				
	Design		100	40	140
	Construction			400	400
	Total Funding	LNR	100C	440C	540C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
47.	Hapuna Beach State Park Plans and construction, including acquisition of land to supplement prior appropriations.	F75	LNR	805						
	Land Acquisition						500		500	
	Construction				300				300	
	Total Funding			LNR	300C		500C		800C	
48.	Wailua River State Park (Lydgate) Develop an additional 25 acres for camping on state lands recently designated for park purposes.	F76	LNR	805						
	Design				20				20	
	Construction						250		250	
	Total Funding			LNR	20C		250C		270C	
49.	Mackenzie State Park Expansion of existing park into adjoining state lands and private land, development of a swimming beach, picnic, and camping.	F77	LNR	805						
	Design						30		30	
	Total Funding			LNR	C		30C		30C	
50.	Na Pali Coast State Park Provision of camping, picnicking and hiking facilities, protection and interpretation of historic and archaeological sites, management facilities for wilderness type park.	F80	LNR	805						
	Land Acquisition				50		50		100	
	Design				10		10		20	
	Construction						90		90	
	Total Funding			LNR	60C		150C		210C	



51.	Olowalu-Kaanapali Wayside & Beautification Incremental development of wayside parks and beautification of scenic highway from Olowalu to Kaanapali. Existing parks include Wahekuli and Laaniopoko waysides.	F81 LNR 805				
	Design				15	15
	Total Funding		LNR	C	15C	15C
52.	West Maui State Park Complex Acquisition of Honolua, Windmill and Honokahau beaches and intervening shore and recreation back-up areas. Eventual expansion to include all state owned and some private, non-cultivated lands makai of the highway from Honolua to Kahakuloa. Development for preservation and use of scenic, historic and recreation resources.	F84 LNR 805				
	Design				100	100
	Total Funding		LNR	C	100C	100C
53.	Aina Moana State Recreation Area Improvements to existing park including additional landscaping, improve beach drainage, repair sea wall and improve shower drainage.	F85 LNR 805				
	Design			15		15
	Construction				150	150
	Total Funding		LNR	15C	150C	165C
54.	Ukumehame State Park Planning and construction of wayside beach park, to be followed by planning and development of a major beach park as needed on this undeveloped state land.	F87 LNR 805				
	Design			15		15
	Construction				150	150
	Total Funding		LNR	15C	150C	165C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
55.	Kaiaka Point Land acquisition and development of beach park at Kaiaka Point, Haleiwa, Oahu master planning.	F88	LNR	805						
	Design				40				40	
	Construction				500				500	
	Total Funding			LNR	540C			C	540C	
56.	Malaekahana Beach Park Planning funds for refining or amending master plan, pre-land acquisition studies, land acquisition, research, interpretive planning and studies, development design and construction as determined by master plan.	H70	LNR	805						
	Design				50		80		130	
	Construction				600		800		1,400	
	Total Funding			LNR	650C		880C		1,530C	
	Spectator Events and Shows									
57.	Drainage Improvements Drainage improvements to seat plates and runways.	B12	BUF	889						
	Design				27				27	
	Construction				263				263	
	Total Funding			AGS	290C			C	290C	
58.	Improvements to Aisles and Stairways Safety improvements to aisles and stairways at the Aloha Stadium.	B13	BUF	889						

	Design				10		10
	Construction				107		107
	Total Funding			AGS	117C	C	117C
59.	Improvements to Movement System	B14	BUF	889			
	Waterproof of transporters and enclosures for grippers.						
	Design				15		15
	Construction				93		93
	Total Funding			AGS	108C	C	108C
60.	Stadium Improvements	B16	BUF	889			
	Improvements to security fence and maintenance area.						
	Design				20		20
	Construction				115		115
	Total Funding			AGS	135C	C	135C
61.	Air Compressor for Movement System	B17	BUF	889			
	Additional air compressor for movement system at Aloha Stadium.						
	Design					30	30
	Construction					415	415
	Total Funding			AGS	C	445C	445C
62.	Landscaping and Other Improvements	B18	BUF	889			
	Landscaping and sprinklers.						
	Design					16	16
	Construction					150	150
	Total Funding			AGS	C	166C	166C
OVERALL PROGRAM SUPPORT FOR CULTURE & REC							
LNR—Gen Admin for Culture and Recreation							
63.	Statewide Resources Development Program	F01	LNR	809			
	Preliminary development of plans for recreational and scenic land, water and underwater resources of the state, including evaluation and						

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	use of existing and potential park resources; plans for acquisition, and development of a state park system.									
	Design				50		50		100	
	Total Funding			LNR	50C		50C		100C	
64.	Statewide Interpretive Planning	F02	LNR	809						
	There is no interpretive program for existing state parks. Historic-archaeologic projects underway involve major interpretive programs. These projects should be coordinated. Other state park historic and natural features can be interpreted but these features must be evaluated to determine the need and priority for interpretation.									
	Design						40		40	
	Construction						10		10	
	Total Funding			LNR		C	50C		50C	
65.	Hilo Baseyard	F04	LNR	809						
	Plans and construction for a baseyard and storage facility.									
	Construction				100				100	
	Total Funding			LNR	100C		C		100C	
<b>I. PUBLIC SAFETY</b>										
<b>SAFETY FROM PHYSICAL DISASTERS</b>										
Amelioration of Physical Disasters										
1.	Army National Guard Armory, Pahala, Hawaii	A18	DEF	110						

Planning and construction of a special designed armory facility of permanent steel and masonry type construction, and including all utilities, access road, parking areas, security fencing, and other supporting features.

Design		15		15
Construction		125		125
Total Funding	AGS	56C	C	56C
	AGS	84N	N	84N

2. Army National Guard Armory, Kohala, Hawaii A19 DEF 110

Planning and construction of a special designed armory facility of permanent steel and masonry type construction, containing approximately 7,500 square feet, and including all utilities, access road, parking areas, security fencing, and other supporting features.

Design		15		15
Construction		150		150
Total Funding	AGS	66C	C	66C
	AGS	99N	N	99N

3. Addition to National Guard Armory, Honolulu A21 DEF 110

Planning and construction of an addition to the existing brigade armory at 22nd Avenue, Honolulu. Addition will be of permanent masonry construction and including all utilities and other supporting items required to complete the facility for occupancy.

Construction		102		102
Total Funding	AGS	102C	C	102C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
4.	Waiawa Army National Guard Armory Addition Planning and construction of an addition to the existing Waiawa armory at Pearl City, Hawaii. Addition will be of permanent masonry construction, including all utilities, access road, parking areas, fencing, and other supporting features required to complete the facility for occupancy.	A25	DEF	110						
	Design					33			33	
	Construction					333			333	
	Total Funding			AGS		155C		C	155C	
				AGS		211N		N	211N	
5.	Installation of Intrusion Detection System Planning and installation of an intrusion detection system in all Army National Guard storage vaults.	A26	DEF	110						
	Design							26	26	
	Construction							270	270	
	Total Funding			AGS		C		74C	74C	
				AGS		N		222N	222N	
6.	Additions to National Guard Facilities, Oahu Plans and construction of additions to National Guard facilities in Waiawa (unexpended balance in item I-8, Act 218, SLH 1974 and item I-3, Act 10, SSLH 1977 may be used for this appropriation).	A27	DEF	110						

Design			1	1
Construction			1	1
Total Funding	AGS	C	2C	2C

7. Replacement of Disaster Warning Sirens      CI2 DEF 110

Incremental replacement of civil defense disaster warning sirens, statewide, worn out and unserviceable due to age, use and exposure. This is a continuing program from year to year. Federal matching funds are reimbursable to the state.

Construction		56	62	118
Total Funding	AGS	28C	31C	59C
	AGS	28N	31N	59N

8. Additional Disaster Warning Sirens      CI3 DEF 110

Incremental installation of additional civil defense disaster warning sirens, statewide, to expand the coverage of warning system to keep pace with new developments, growth of communities and population shifts. This is a continuing program from year to year. Federal matching funds will be reimbursed to the state.

Construction		64	70	134
Total Funding	AGS	32C	35C	67C
	AGS	32N	35N	67N

**K. GOVERNMENT-WIDE SUPPORT**  
**EXEC DIRECTN, COORD, & POLICY DEVELOPMENT**  
Office of the Governor

1. Project Adjustment Fund      G01 GOV 100

To establish a contingency fund for project adjustment purposes subject to the provisions of the appropriations act (to be expended by the office of the governor).

Design		3,000	3,000	6,000
Total Funding	GOV	3,000C	3,000C	6,000C

**APPROPRIATIONS (\$1,000's)**

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	Policy Development and Coordination Land Use, Statewide Plan and Coordination									
2.	Comprehensive Planning—SCORP State Comprehensive Outdoor Recreation Plan and Revision Program as a prerequisite for continual receipt of federal funds for recreational projects.	ORI	PED	103						
	Design				120				120	
	Total Funding			PED	60C		C		60C	
				PED	60N		N		60N	
3.	Kakaako Community Development District, Oahu Plans and designs for development of the Kakaako area, including addressing present needs as well as long-range potentials. May be used to match federal and non-state funds, as may be available.	HCD001	PED	103						
	Design						1,883		1,883	
	Total Funding			PED		C	1,883C		1,883C	
	GENERAL SERVICES									
	Property Management									
	Public Lands Management									
4.	Sand Island Ongoing project. Design being prepared for park and industrial complex. Prior years include consultant services and soil study. Engineering drawings in preparation for access	E07	LNR	101						



parkway to bid in calendar 1976. Design for closed and lined box drain across foreign trade zone 1976-77; construction 1976-77.

Design		70		70
Construction			2,500	2,500
Total Funding	LNR	70C	2,500C	2,570C

5.      Nawiliwili Coral Fill      E20   LNR   101

Design contract in preparation. DOT constructing small boat harbor in part of fill area. To be completed August 1974. Industrial subdivision to be developed FY 77-78.

Construction		1,560		1,560
Total Funding	LNR	1,560D	D	1,560D

Facilities Construction and Maintenance Construction

6.      Vineyard Street Garage      A18   AGS   221

A parking facility for the mauka portion of the state capitol complex.

Construction			3,022	3,022
Total Funding	AGS	D	3,022D	3,022D

7.      Kona Multi-Agency Maint. and Svc. Facil.      A23   AGS   221

Multi-agency maintenance and service facility in Kona to house various state agencies.

Land Acquisition		48		48
Design		82		82
Construction			1,369	1,369
Total Funding	AGS	130C	1,369C	1,499C

8.      Kaneohe State Office Bldg.      A37   AGS   221

A new site and state office building to provide office space for various state agencies.

Land Acquisition		415		415
Construction			3,152	3,152
Total Funding	AGS	415C	3,152C	3,567C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
9.	Kaunakakai Office Building and Land Acq. New state office building to provide space for various state agencies in the Kaunakakai civic center.	A39	AGS	221						
	Design				90				90	
	Construction						110		110	
	Total Funding			AGS	90C		110C		200C	
10.	New State Office Bldg. No. 2 Des. and Const A new state office building in the capitol complex.	A40	AGS	221						
	Design				37		209		246	
	Construction				6,833		1,235		8,068	
	Total Funding			AGS	6,870C		1,444C		8,314C	
11.	Wahiawa Civic Center, Oahu Expansion of the existing civic center with a new state office building to provide space for various state agencies.	A42	AGS	221						
	Land Acquisition				195				195	
	Construction						2,044		2,044	
	Total Funding			AGS	195C		2,044C		2,239C	
12.	Honokaa Site Development & Landscaping Site improvements and landscaping.	A49	AGS	221						
	Design				5				5	
	Construction				38				38	
	Total Funding			AGS	43C		C		43C	

13.	New Makai Parking Garage Planning, land acquisition, design and construction of a parking structure.	A56 AGS 221				
	Design			162		162
	Construction			2,464		2,464
	Total Funding		AGS	162C	C	162C
			AGS	2,464D	D	2,464D
14.	Waialua-Haleiwa Civic Center A civic center in the Waialua-Haleiwa area to house various state agencies including a new district court.	A68 AGS 221				
	Land Acquisition			297		297
	Design			50		50
	Construction				619	619
	Total Funding		AGS	347C	619C	966C
15.	Makawao-Paia Civic Center A new site and state office building to accommodate various state agencies.	A78 AGS 221				
	Land Acquisition				3	3
	Design				6	6
	Total Funding		AGS	C	9C	9C
16.	Remodeling State Office Spaces Remodeling and upgrading state office space, statewide.	A91 AGS 221				
	Design			43	47	90
	Construction			216	235	451
	Total Funding		AGS	259C	282C	541C
17.	Advance Planning, Statewide To prepare reports such as system development, project development, site selection, state capitol complex policy committee, staff study, CIP assistance, building inventory, state capitol complex plan review, office space inventory, office space layout, analysis of lease request,	A92 AGS 221				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. ID No. Org. No.	Exp. Agy.	Fiscal Year 1977-78	M O F	Fiscal Year 1978-79	M O F	Total Biennium 1977-79	M O F
	analysis of office space request in state buildings and other planning projects.								
	Design			100		100		200	
	Total Funding		AGS	100C		100C		200C	
18.	Renovation of Kamamalu Bldg	B04	AGS	221					
	Renovation for existing &, new office space occupancies.								
	Design			46				46	
	Construction					413		413	
	Total Funding		AGS	46C		413C		459C	
19.	State Capitol Complex	B05	AGS	221					
	Landscaping and Site Improvements								
	Landscaping and general site improvements within the state capitol complex.								
	Design			100				100	
	Construction			400				400	
	Total Funding		AGS	500C		C		500C	
20.	North Kona Civic Center	B14	AGS	221					
	A civic center in the north Kona area to house various state agencies.								
	Design					92		92	
	Total Funding		AGS	C		92C		92C	
21.	Renovation of Kinau Hale	B16	AGS	221					
	Renovate Kinau Hale to improve building systems and office layouts.								
	Design			38				38	
	Construction					297		297	
	Total Funding		AGS	38C		297C		335C	

22.	State Capitol Air Condition System Improvement Plan and construct a cooling tower to eliminate the existing well-water system.	B17 AGS 221				
	Design			63	63	
	Total Funding	AGS	C	63C	63C	
23.	Waipahu Civic Center A civic center in the Waipahu area to house various state agencies.	B18 AGS 221				
	Design			129	129	
	Total Funding	AGS	C	129C	129C	
24.	Waianae Civic Center A new state office building to house various state agencies.	B22 AGS 221				
	Design			111	111	
	Total Funding	AGS	C	111C	111C	
	Subsidies to Counties					
	County Capital Improvement Projects					
	City & County of Honolulu—CIP					
25.	Waikiki Improvements, Oahu Land acquisition, plans and construction for improvements to Waikiki to include underground utility wiring, Kalakaua sidewalk redevelopment and beautification, mini-park acquisition, storm drainage, and miscellaneous traffic improvements. To be matched by 20% funding from City and County of Honolulu.	E35 SUB 201				
	Land Acquisition			450	450	
	Design			250	250	
	Construction			2,300	2,300	
	Total Funding	CCH	C	2,500C	2,500C	
		CCH	S	500S	500S	

SECTION 6. Section 91, Act 10, Special Session Laws Of Hawaii 1977, is amended to read:

“SECTION 91. GENERAL OBLIGATION BONDS. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part IV of this Act and designated to be financed from general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds, provided that the sum total of the general obligation bonds so issued shall not exceed \$245,733,000.”

SECTION 7. Section 116, Act 10, Special Session Laws of Hawaii 1977, is amended to read:

“SECTION 116. All unrequired balances after the objectives of appropriations made in this Act or Act 9, Special Session Laws of Hawaii 1977, or S.B. 2202-78,† if passed by the legislature during this Regular Session of 1978, for capital investment purposes from the general obligation bond fund have been met shall be transferred to the project adjustment fund appropriated in Part II of this Act and shall be considered a supplementary appropriation thereto.

In the event that the amount specified for a capital investment project listed in this Act or Act 9, or S.B. 2202-78,† if passed by the legislature during this Regular Session of 1978, or authorized by the Legislature in a prior year or in the future is insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; provided further that such supplemental allotments for this Act shall not exceed twenty-five per cent of the total cost of the recipient project where such total cost does not exceed one million dollars; and such supplemental allotments for this Act shall not exceed ten per cent of the total cost of the recipient project, where such total cost is one million dollars or more; and provided further that a report of such supplemental allotments and transfers into the project adjustment fund for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

Any provision in this Act to the contrary notwithstanding, supplemental allotments from the project adjustment fund may be made for any capital investment cost element.”

SECTION 8. Section 88E of Act 195, Session Laws of Hawaii 1975, as amended by Act 226, Session Laws of Hawaii 1976, is amended to read as follows:

“SECTION 88E. Provided that in making the expenditure of the appropriation made in Part IVA, Item A2, Natural Energy Project, Ke-ahole Pt., Hawaii, a mixture of federal government and private industry or funding by

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†Enacted as Act 244.

private sector groups may be used for the establishment of research into practical conversion of natural energy sources and ancillary investigation.”

SECTION 9. Section 100, Act 10, Special Session Laws of Hawaii 1977, is amended to read:

“SECTION 100. Except as provided in Section 13 of this Act, where a program is financed by the general fund as well as by a source of funding other than the general fund, the general fund appropriation shall be decreased to the extent that the amount received from the non-general fund source exceeds the amount approved in this Act from such source; provided that such decrease of the general fund appropriation shall not jeopardize the receipt of the increased amount from the non-general fund source; provided further, that the preceding requirements shall not apply if the excess receipts are to be expended for a purpose or purposes of the program approved by the Governor or the Director of Finance if such authority is so delegated by the Governor.”

SECTION 10. SEVERABILITY. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 11. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes pursuant to this section shall be reported to the legislature at its next session.

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\* Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 10, Special Session Laws of Hawaii 1977, not repealed or modified by this Act.

SECTION 13. EFFECTIVE DATE. This Act shall take effect upon its approval.

(Approved June 20, 1978.)

ACT 244

S.B. NO. 2202-78

A Bill for An Act Relating to Capital Improvement Projects and Authorizing the Issuance of Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the General Improvements Act of 1978.

\*Edited accordingly.

**ACT 244**

**SECTION 2.** The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated or authorized, as the case may be, to be expended by the department of accounting and general services, unless otherwise specified in this section, out of moneys in the treasury received from general obligation bond funds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein that do not have funding specifically designated; provided that the sum total of the general obligation bonds so issued shall not exceed \$54,899,100.

**I. COUNTY OF HAWAII**

**A. DEPARTMENT OF AGRICULTURE**

- |  |         |
|--|---------|
| 1. Waimea Vacuum Cooling Plant, Hawaii   | 100,000 |
| Plans and construction for the extension of the vacuum cooling plant at Waimea, Hawaii. Supplement to prior appropriation. |         |
| 2. Renovation of Big Animal Quarantine Station, Hilo, Hawaii   | 16,000  |
| Plans and construction for the renovation of the Big Animal Quarantine Station, Hilo, Hawaii.                              |         |

**B. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT**  
(To be expended by the Department of Planning and Economic Development)

- |   |       |
|---|-------|
| 1. Hawaii's Indigenous Natural Energy Resources   | 1,000 |
| For research, development, demonstration, commercial development and cooperative efforts with all levels of government, the University, and private enterprise. To be supplemented by private and federal funds as they become available. |       |

**C. DEPARTMENT OF LAND AND NATURAL RESOURCES**  
(To be expended by the Department of Land and Natural Resources)

- |   |         |
|---|---------|
| 1. South Kona Water System, Hawaii  | 100,000 |
| Plans, land acquisition, and construction for development, including exploratory well, pipeline, pumping facilities and other appurtenances. Supplement to prior appropriation.   |         |
| 2. Hulihee Palace, Kailua-Kona, Hawaii  | 400,000 |
| Plans and construction for the restoration and preservation of Hulihee Palace, Kailua-Kona, Hawaii. Grant-in-Aid.   |         |
| 3. Aquarium, East/ West Hawaii  | 25,000  |
| Feasibility study to include but not limited to type of aquarium, site, management arrangement, size, capital improvement cost and operational cost estimate.   |         |
| 4. Happiness Garden Project, Hilo, Hawaii   | 85,000  |
| Land acquisition, plans and construction for landscaping, equipment and other appurtenances.  |         |
| 5. Wailoa River Basin Marine and Park Related Facilities, Hawaii  | 1,000   |
| Plans and construction for marine related facilities which shall include a covered structure to house marine related activities, parking facilities capable of handling large vehicles, restroom facilities and other appurtenances. To be supplemented from Act 9, Special Session Laws of Hawaii 1977, section 2, item I-D-1 and Act 226, Session Laws of Hawaii 1976, section 91F, item I-B-4. |         |



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|---|--------|
| 6. Wailoa River State Park, Hilo, Hawaii  | 50,000 |
| Land acquisition, plans, construction, and equipment for development, including site improvement, a double ramp, wash down facilities, connecting roads to nearby State parking lots and other appurtenances. Unexpended balances in Act 226, Session Laws of Hawaii 1976, section 91F, item I-B-5 and Act 9, Special Session Laws of Hawaii 1977, section 2, item I-C-2 shall be used. |        |

**D. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

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|---|--------|
| 1. Hawaii Belt Road, Plumeria Road Intersection, Honokaa, Hawaii  | 50,000 |
| Plans and construction for channelized intersection on Hawaii Belt Road at Plumeria Road.   |        |
| 2. Honokaa-Waipio Road Drainage Improvements, Hawaii  | 20,000 |
| Plans and construction for drainage improvements at Kapulena and Kukuihaele.  |        |
| 3. Mamane Street, Honokaa, Hawaii   | 25,000 |
| Plans and construction for slope stabilization.   |        |
| 4. Kawaihae Road from Waimea towards Hapuna, Hawaii   | 1,000  |
| Plans and construction for incremental construction of a highway from Mamalahoa Highway in the vicinity of Kamuela Racetrack to Queen Kaahumanu Highway at Hapuna. Funds appropriated in item C-28, Act 226, Session Laws of Hawaii 1976, may be used for the purposes of this Act.   |        |
| 5. Wailoa River and Hilo Bay Area, Hawaii   | 20,000 |
| Plans, construction, equipment and other appurtenances for emergency dry docking facility, mooring facilities, bulk heads and repair and maintenance of existing facilities. Funds to be supplemented from Act 226, Session Laws of Hawaii 1976, section 91E; item II-C-4; Act 226, Session Laws of Hawaii 1976, section 91F, item I-C-1 and Act 195, Session Laws of Hawaii 1975, section 91, item II-C-8. |        |

**E. DEPARTMENT OF EDUCATION**

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|--|---------|
| 1. Hilo Intermediate School, Hawaii  | 35,000  |
| Plans and construction for four (4) portable walls in Building L.  |         |
| 2. Hilo Intermediate School Classroom Facilities, Hawaii   | 1,000   |
| Plans and construction for improvements to classroom building "L" at Hilo Intermediate School, Hilo, Hawaii. Funds from item I-K-1 of Act 9, Special Session Laws of Hawaii 1977, not exceeding the sum of \$75,000 may be used for the purposes of this Act.            |         |
| 3. Hilo Intermediate School Athletic Field, Hawaii   | 1,000   |
| Plans and construction for the grading and improvement of the athletic field at Hilo Intermediate School, Hilo, Hawaii. Funds from item I-K-1 of Act 9, Special Session Laws of Hawaii 1977, not exceeding the sum of \$90,000 may be used for the purposes of this Act. |         |
| 4. Honaunau Elementary School, Hawaii  | 100,000 |
| Plans and construction for the extension of Albert Akana Cafetorium, to include a stage, storage area, dressing rooms and toilet facilities. Supplement to prior appropriation.  |         |
| 5. Ka'u High School, Hawaii  | 25,000  |
| Plans and construction for classrooms, additional educational facilities and support facilities. Supplements prior appropriation.  |         |

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|---|--------|
| 6. Keeau Elementary and Intermediate School, Hawaii   | 25,000 |
| Plans and construction for classrooms, additional educational facilities, and support facilities.   |        |
| 7. Konawaena High School, Hawaii  | 1,000  |
| Plans and construction of physical education locker-shower facilities, classrooms, equipment and appurtenances. Shall be supplemented by section 72A, item I-F-5 of Act 218, Session Laws of Hawaii 1974. |        |
| 8. Mt. View Elementary and Intermediate School, Hawaii  | 15,000 |
| Plans and construction for classrooms, additional educational facilities, and support facilities.   |        |
| 9. Naalehu Elementary School, Hawaii  | 15,000 |
| Plans and construction for classrooms, additional educational facilities, and support facilities. Supplements prior appropriations.   |        |
| 10. Pahoa High and Elementary School, Hawaii  | 50,000 |
| Plans and construction for classrooms, additional educational facilities, and support facilities. Supplements prior appropriations.   |        |
| 11. Waiakea Intermediate School, Hawaii   | 25,000 |
| Plans and construction for classrooms, additional educational facilities, and support facilities.   |        |
| 12. Waiakeawaena Elementary School, Hawaii  | 25,000 |
| Plans and construction of school library and necessary equipment. To supplement prior appropriation.  |        |

### F. UNIVERSITY OF HAWAII

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|--|--------|
| 1. University of Hawaii, Hilo, Hawaii                                      | 52,000 |
| Plans and construction for general repairs and renovation of College Hall. |        |
| 2. University of Hawaii, Hilo, Hawaii                                      | 51,000 |
| Plans and construction for general repairs and renovation of gymnasium.    |        |

### H. DEPARTMENT OF HEALTH

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|---|--------|
| 1. Human Development Complex Master Plan, South Hilo, Hawaii  | 30,000 |
| Design of a master plan for centralization of services to rehabilitate patients with handicapping conditions. Grant-in-Aid. (To be expended by the Department of Health.)   |        |
| 2. Kona Hospital, Hawaii  | 99,000 |
| Plans and construction for enlarging the waiting and examining rooms of the emergency unit.   |        |
| 3. St. Francis Renal Dialysis Center, Hilo Hospital Grounds, Hawaii   | 70,000 |
| Plans and construction for renovation to the Renal Dialysis Center to accommodate the relocation of dialysis equipment including major electrical and plumbing repairs. Grant-in-Aid. (To be expended by the Department of Health.) |        |

### K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING

(To be expended by the Department of Social Services and Housing)

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|---|--------|
| 1. Brantley Center, Honokaa, Hawaii   | 10,000 |
| Plans and construction for the renovation of windows, repair of leaking roof and extension of 2 classrooms. Grant-in-Aid.                 |        |
| 2. Phase II, Hawaii   | 1,000  |
| Plans and construction of an environmentally responsive, resource conserving, minimum technology, demonstration model house in the County |        |

of Hawaii. Unexpended balances from item I-K-1 of Act 9, Special Session Laws of Hawaii 1977 may be used for the purposes of this Act.

**O. DEPARTMENT OF BUDGET AND FINANCE**

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|---|--------|
| 1. Historic Buildings and Sites, Third Representative District, Hawaii  | 10,000 |
| Plans and construction for the preservation of historic buildings and sites in the Third Representative District, County of Hawaii. (To be expended by the State Foundation on History and the Humanities). |        |

**W. COUNTY OF HAWAII**

(To be expended by the County of Hawaii)

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|--|---------|
| 1. Ahualoa Road Improvement, Hamakua, Hawaii   | 50,000  |
| Plans and construction for improvement of existing highway.  |         |
| 2. Aquarium, Hawaii  | 10,000  |
| Plans and construction for an aquarium.  |         |
| 3. Easter Seal Society for Crippled Children and Adults of Hawaii, Hilo, Hawaii  | 100,000 |
| Planning, construction, equipment and appurtenances for new Easter Seal facilities. Funds to be supplemented from Act 9, Special Session Laws of Hawaii 1977, section 2, item I-W-24. Grant-in-aid.  |         |
| 4. Cultural Center, Hawaii   | 1,000   |
| Planning and construction of a Cultural Center in Banyan Drive area. Shall be supplemented by section 72, item I-D-1 of Act 218, Session Laws of Hawaii 1974; Section 91F, item I-M-1 of Act 226, Session Laws of Hawaii 1976, and section 2, item I-W-10 of Act 9, Special Session Laws of Hawaii 1977. |         |
| 5. Elderly Housing, Waimea-Kawaihae, Hawaii  | 20,000  |
| Land acquisition, plans, construction, equipment and other appurtenances for elderly housing.  |         |
| 6. Golf Course in North Kona, Hawaii   | 1,000   |
| Plans and construction for an 18-hole municipal golf course in North Kona, Hawaii. Unexpended balances included in part VI, item N-25, of Act 195, Session Laws of Hawaii 1975, may be used for the purposes of this Act.  |         |
| 7. Hilo Bay/Queen Liliuokalani Beach Park Area, Hawaii   | 115,000 |
| Feasibility study, planning and construction of a man-made beach, restroom facilities, and other appurtenances.  |         |
| 8. Hilo Bayfront Park Improvements, Hawaii   | 100,000 |
| Plans and construction for park improvements.  |         |
| 9. Hilo Civic Auditorium Renovation, Hawaii  | 20,000  |
| Plans and construction for auditorium renovations.   |         |
| 10. Hilo Civil Air Patrol Building, Hawaii   | 12,000  |
| Plans and construction for installation of utility lines and cesspool facilities. Grant-in-Aid.  |         |
| 11. Hilo District Road Improvements, Hawaii  | 75,000  |
| Plans and construction for road improvements for Hilo.   |         |
| 12. Hilo Downtown Improvements, Hawaii   | 140,000 |
| Land acquisition, planning, construction improvements and other appurtenances related to the Hilo Downtown Development Districts. To be supplemented by Act 9, Special Session Laws of Hawaii 1977, section 2, item I-W-21; Act 226, Session Laws of Hawaii 1976, section 91E, item                      |         |

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11-N-6, Act 226, Session Laws of Hawaii 1976, section 91F, item 1-N-1; Act 195, Session Laws of Hawaii 1975, section 91, item 11-N-1 and item 11-N-2; Act 218, Session Laws of Hawaii 1974, section 72A, item 1-H-44.	
13. Hilo Storm Drainage System, Hawaii Plans and construction for storm drainage system. To supplement prior appropriation.	50,000
14. Honokaa Ball Park, Hawaii Plans and construction for dugouts for the softball and baseball diamonds at Honokaa Ball Park.	20,000
15. Improvements to Hilo Streets, Hawaii Plans and construction for improvements to Komohana, Manono, and Kawaihani Streets and Waianuenue Avenue.	135,000
16. Isaac Hale Beach Park, Hawaii Plans and construction for park improvements. To supplement Federal funds.	62,000
17. Kaimu-McKena Homestead, Hawaii Land acquisition, plans and construction for access to State lands.	10,000
18. Kalapana Community Center, Hawaii Plans and construction of a community center at Kalapana. Funds appropriated in section 2, part 1, item W-12, Act 9, Special Session Laws of Hawaii 1977, may be used for the purposes of this Act.	1,000
19. Kaumana Drive Improvements, Hawaii Plans and construction for improvements to Kaumana Drive including resurfacing. To supplement prior appropriations.	136,000
20. Kalapana Community Center, Hawaii Plans, construction and equipment for the Kalapana Community Center. Supplements prior appropriation.	25,000
21. Keaau Community Center, Hawaii Plans and construction for community facilities in Keaau.	110,000
22. Kealakehe Overpass, Hawaii Plans and construction for a pedestrian overpass at the Palani Road crossing for Kealakehe School.	55,000
23. Kona Municipal Golf Course, Kona, Hawaii Site selection and master planning of Kona Municipal Golf Course. Shall be supplemented with \$50,000 from section 91, item 11-M-1 of Act 195, Session Laws of Hawaii 1975.	1,000
24. Kona Recreational Facilities, Hawaii Plans and construction for recreational facilities in Kona to include outdoor courts at the Holualoa Community Center and field lights at the Old Kona Airport Park in North Kona. Unexpended balances from item 1-H-33 of section 72A, Act 218, Session Laws of Hawaii 1974, may be used for this project.	1,000
25. Kurtistown Homestead Roads, Hawaii Plans and construction for improvements to existing roads to county standard.	10,000
26. Laupahoehoe Point Road, Laupahoehoe, Hawaii Plans and construction for improvements to Laupahoehoe Point Road.	50,000
27. Laupahoehoe Swimming Pool, Hawaii Plans and construction for improvements, including deck equipment, access road, parking, floodlights, covered walkway, bleacher facilities, landscaping, and other appurtenant items.	50,000

28. Multi-purpose Building, Waimea Park Complex, Hawaii	50,000
Land acquisition, plans, construction and equipment for multi-purpose building for recreational, senior citizen program, community and other use. Building to include full kitchen and other related space and equipment.	
29. Old Hilo Airport Improvements, Hawaii	27,000
Plans and construction for improvements to the old Hilo Airport to accommodate agricultural activities.	
30. Old Mamalahoa Highway Improvements, Hawaii	1,000
Plans and construction for improvements to Old Mamalahoa Highway access road to Laupahoehoe Point. Funds appropriated in item 72-C-68 of Act 218, Session Laws of Hawaii 1974 shall be used to supplement this appropriation.	
31. Onomea Park, Hawaii	1,000
Land acquisition, plans and construction for development of park, recreation, and other public facilities and improvements at Onomea Bay Park, Hilo, Hawaii; provided that if no funds have been expended or encumbered from such prior appropriation as of the close of business on June 30, 1978, all funds appropriated for Onomea Park, Hilo, Hawaii, shall be expended by the Department of Land and Natural Resources instead of the County of Hawaii as provided in Act 195. To supplement the appropriation made in Act 195, part VI, section 91, item 11-N-37, Session Laws of Hawaii 1975.	
32. Orchidarium, Hawaii	35,000
Plans and construction for an orchidarium in Hilo.	
33. Pahala Swimming Pool, Hawaii	50,000
Plans and construction for installing filter system and other general improvements.	
34. Pahoa Playground, Hawaii	100,000
Plans and construction for incremental development, including master plan.	
35. Palani Road Safety Improvements, North Kona, Hawaii	98,000
Plans and construction for installation of traffic signal light at Kuakini Highway and Palani Road Junction.	
36. Panaewa Park, Hawaii	100,000
Plans and construction for outdoor courts and other appurtenant items.	
37. Puainako Street Lighting, Hawaii	10,000
Plans and construction for installation of street lighting.	
38. Puna-Kau District Road Improvements, Hawaii	25,000
Plans and construction for improvements to roads in the Puna District.	
39. Puna-Kau Neighborhood Park, Hawaii	24,000
Plans and construction for community park facilities. To supplement prior appropriations.	
40. Puna Police Station Expansion, Hawaii	50,000
Plans and construction for expansion of the existing police station facility.	
41. Redevelopment and Urban Renewal Projects, Hawaii	1,000
Land acquisition, plans and construction for redevelopment and urban renewal projects. Unexpended balances from sections 1 and 2 of Act 3, Special Session Laws of Hawaii 1960, as amended by Act 69, Session Laws of Hawaii 1968, shall be used for such redevelopment and urban renewal projects as may be undertaken in Hawaii County.	

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|---|--------|
| 42. Traffic Signal System, Hawaii   | 50,000 |
| Plans and construction for traffic signal light system at Waianuenue/<br>Kamehameha, Waianuenue/Bayfront Highway and along Kamehameha<br>Avenue in Downtown Hilo.   |        |
| 43. University Heights Park, Hawaii   | 1,000  |
| Plans, construction, restroom facilities and other appurtenances. Shall be<br>supplemented by section 72, item II-N-12 of Act 226, Session Laws of<br>Hawaii 1976; section 2, item I-W-16 of Act 9, Special Session Laws of<br>Hawaii 1977 and \$200,000 from section 91, item II-M-1 of Act 195, Ses-<br>sion Laws of Hawaii 1975. |        |
| 44. Waiakea-Uka Improvements, Hawaii  | 75,000 |
| Land acquisition, plans and construction for development of flood control<br>measures. To supplement prior appropriation.   |        |
| 45. Waiakea-Uka Road, Hawaii  | 15,000 |
| Plans and construction for improvements to existing road to county stan-<br>dard.   |        |
| 46. Wainaku Road Improvements, Hawaii   | 50,000 |
| Plans and construction for improvements to Wainaku Road.  |        |
| 47. Waiolama Canal Improvements, Hawaii   | 20,000 |
| Plans and construction for improvements, including dredging and realign-<br>ment of canal.  |        |
| 48. Waipio Valley Road and River Improvements, Hawaii   | 15,000 |
| Plans and construction for improvements, including installation of guard<br>rails, widening of road where necessary and dredging of river.  |        |

### WW. COUNTY OF HAWAII

(To be expended by the Water Commission)

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|---|---------|
| 1. Hamakua Water System Development, Hawaii   | 100,000 |
| Plans and construction for incremental development of water system, in-<br>cluding source development, pipelines, booster pump stations and storage<br>facilities; and land and source acquisition at the Hamakua water system.   |         |
| 2. Hawaiian Oceanview Estates Water Development, Hawaii   | 10,000  |
| Plans and construction for water storage facility for domestic and emer-<br>gency use. To supplement prior appropriations.  |         |
| 3. Ka'u Trunk Line and Storage Facility, Hawaii   | 25,000  |
| Plans and construction for development of water system, including stor-<br>age facility, installation and replacement of trunk line and appurtenances,<br>and land acquisition.   |         |
| 4. Keaau-Pahoa Trunk Line, Puna, Hawaii   | 50,000  |
| Plans and construction for the development, including groundwater<br>source, storage facilities, connection lines and incremental construction<br>of trunk lines. Unencumbered funds from item I-H-52 of section 72A, Act<br>218, Session Laws of Hawaii 1974 may be used for this project.         |         |
| 5. Niulii-Makalapa Water System Development, Hawaii   | 200,000 |
| Plans and construction for water system development, including source<br>development, transmission mains, trunk lines, pumps, tanks, and appur-<br>tenances at the Niulii-Makalapa water system.  |         |
| 6. Kehena Ditch Water Project, Hawaii   | 205,000 |
| Land acquisition, plans and construction for development, including<br>pumps, pipelines and storage facilities at the Kehena ditch water source.<br>Funds to be supplemented from Act 9, Special Session Laws of Hawaii<br>1977, section 2, item I-WW-6; Act 195, Session Laws of Hawaii 1975, sec- |         |

tion 91, item II-O-8; Act 226, Session Laws of Hawaii 1976, section 91F, item I-B-2; Act 218, Session Laws of Hawaii 1974, section 72A, item I-H-60.

7. Water Main and Hydrant System in Puako, South Kohala, Hawaii 100,000  
Land acquisition, plans, and construction of a water main and hydrant system in Puako, South Kohala, Hawaii.
8. Panaewa Farm Lots Water Line, Hawaii 25,000  
Plans and construction for improvements to existing water line and installation of fire hydrants at various locations.
9. Puna Water Development, Hawaii 50,000  
Plans and construction for incremental development of water system, including source development, pipelines, booster pump stations and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition for Olaa, Kurtistown and Mt. View.
10. North Kohala Water System Development, Hawaii 1,000  
Incremental development of water system; including plans and construction of source development, pipelines, booster pump stations and storage facilities; improvements and replacement of existing facilities and appurtenances; and land and source acquisition at North Kohala water system shall be supplemented by section 72, item I-G-4, item I-G-7, item I-H-29, item I-H-30 of Act 218, Session Laws of Hawaii 1974. Funds from item I-G-3 of Act 218, Session Laws of Hawaii 1974 may be used.
11. Olaa Flume Development, Hawaii 353,000  
Plans and construction for incremental development of water system, including source development, pipelines, booster pump stations and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition.

## II. COUNTY OF MAUI

### A. DEPARTMENT OF AGRICULTURE

1. Vacuum Cooling Plant, Omaopio, Maui 175,000  
Plans and construction for the improvements and expansion of the vacuum cooling plant including loading dock, parking and access roads, security fence, forklift, and other appurtenances. Supplements prior appropriations.
2. Burrowing Nematode Laboratory, Maui 50,000  
Plans and construction for improvements of laboratory facilities at burrowing nematode laboratory including equipment.

### C. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

1. Molokai Hydroelectric System 70,000  
Plans and construction for a hydroelectric system on Molokai utilizing the State reservoir and irrigation pipeline system. No matching funds required.

### D. DEPARTMENT OF TRANSPORTATION

(To be expended by Department of Transportation)

1. Honouliwai Launching Ramp, Molokai 50,000  
Plans and construction for a boat ramp and other improvements.

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| 2. Honouliwai Small Boat Launching Ramp, Molokai<br>Plans and construction for a small boat launching ramp at Honouliwai, Molokai.  | 25,000  |
| 3. Lahaina Bikeway, Maui<br>Plans and construction for a bikeway and other improvements from Honokawai to Lahaina Civic Center.   | 50,000  |
| 4. Lower Main and Waiehu Beach Road, Maui<br>Plans and construction for improvements, including traffic control devices and street-lights.  | 50,000  |
| 5. Kamehameha V Highway, Molokai<br>Plans and construction for incremental resurfacing of highway toward east-end of Molokai.   | 100,000 |
| 6. Kula Highway, Ulupalakua to Keokea, Maui<br>Plans and construction for a two-lane highway from junction of Route 31 (new Piilani Highway) and Route 37 (Kula Highway) at Kanaio, and Ulupalakua to Kula Sanatorium Road at Keokea, including land acquisition. | 100,000 |

### E. DEPARTMENT OF EDUCATION

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|--|---------|
| 1. Baldwin High School, Maui<br>Plans and construction for facilities, including art classrooms and multi-purpose room for physical education and other athletic activities. | 105,000 |
| 2. Baldwin High School, Maui<br>Plans and construction for a multi-purpose building for physical education programs. To supplement prior appropriation.                      | 50,000  |
| 3. Hana High and Elementary School, Maui<br>Plans and construction for a gymnasium and appurtenances. Supplements prior appropriation.                                       | 400,000 |
| 4. Kamehameha III Elementary School, Maui<br>Plans and construction for improvements, including chain link fence.  | 5,000   |
| 5. Kahului Elementary School, Maui<br>Plans and construction for a sprinkler system.   | 25,000  |
| 6. Kihei Elementary School, Maui<br>Plans and construction for a library building, appurtenances, and other improvements.  | 75,000  |
| 7. Kilohana Elementary School, Molokai<br>Plans and construction for new kitchen/dining and other improvements.  | 45,000  |
| 8. Kualapuu Elementary School, Molokai<br>Plans and construction for multi-purpose room for approximately 150 people and other improvements.                                 | 45,000  |
| 9. Kaunakakai Elementary School, Molokai<br>Plans and construction for new classroom building (4 rooms), parking area and other improvements.                                | 40,000  |
| 10. Lahainaluna High School, Maui<br>Plans and construction for four classrooms.   | 50,000  |
| 11. Lanai High and Elementary School, Lanai<br>Plans and construction for the auto shop building.  | 45,000  |
| 12. Lihikai Elementary School, Maui<br>Plans and construction for an additional parking area with lights.  | 71,000  |
| 13. Maui High School, Maui<br>Plans and construction for custodian storage building, improvement of  | 67,000  |



irrigation system, and completion of closed circuit television system.

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| 14. Maui High School, Maui   | 150,000 |
| Plans and construction for a gymnasium and appurtenances. Supplements prior appropriations.              |         |
| 15. Molokai High and Elementary School, Molokai  | 45,000  |
| Plans and construction for an administration building.   |         |
| 16. I'ukulani Elementary School, Maui  | 50,000  |
| Plans and construction for additional classrooms and parking.  |         |
| 17. Waihee Elementary School, Maui   | 80,000  |
| Plans and construction for a three-classroom building.   |         |
| 18. Wailuku Elementary School, Maui  | 85,000  |
| Plans and construction for Administrative Building bus loading, parking area and demolition of building. |         |

**F. UNIVERSITY OF HAWAII**

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|---|--------|
| 1. Maui Community College, Maui   | 25,000 |
| Plans and construction for conversion of Open Hale to classroom for nurses training and other improvements. |        |

**H. DEPARTMENT OF HEALTH**

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|--|--------|
| 1. Damien Chapel Restoration, Molokai  | 25,000 |
| Plans and construction to restore Father Damien Chapel at Kalaupapa, Molokai.  |        |
| 2. Kalaupapa Settlement, Molokai   | 50,000 |
| Plans and construction for a new water tank.   |        |
| 3. Maui Health Center, Maui  | 25,000 |
| Plans and construction for humidity control for laboratory, and extension of Maui Health Center Building.  |        |
| 4. Maui Memorial Hospital, Maui  | 1,000  |
| Plans and construction for a new south wing, including furnishing and equipment. To supplement prior appropriations. Funds authorized in Act 10, Special Session Laws of Hawaii 1977, item E-5 of part IV, section 86, may be used for this project. |        |

**K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

(To be expended by the Department of Social Services and Housing)

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|--|--------|
| 1. Molokai Rehabilitation Facility, Molokai                                  | 75,000 |
| Plans and construction for a Rehabilitation Facility at Kaunakakai, Molokai. |        |

**M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

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|---|--------|
| 1. Lanai State Office Building, Lanai                           | 20,000 |
| Plans and construction for renovation of State Office Building. |        |

**V. COUNTY OF MAUI**

(To be expended by the County of Maui)

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|---|---------|
| 1. Elderly Day Care Center, Maui  | 100,000 |
| Plans and construction for an elderly day care center. Supplements prior appropriation. |         |
| 2. Front Street, Lahaina, Maui  | 200,000 |
| Plans and construction for seawall.   |         |

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3. Kahului Convention Center, Maui Land acquisition, engineering study, plans and construction for a large meeting hall with kitchen facilities, equipment and other appurtenances.	50,000
4. Kapaakea Flood Control Project, Molokai Plans and construction for a flood control project and other improvements. Funds from the following Acts may be used for this purpose: part IV, item H-17, Act 195, Session Laws of Hawaii 1975; part IVA, item H-30, Act 226, Session Laws of Hawaii 1976.	1,000
5. Kaunakakai Sewerage System, Molokai Plans and construction for the extension of Kaunakakai sewerage system for east-end to Kamiloloa.	400,000
6. Kihei Community Center, Maui Plans and construction for a community center complex and other appurtenances.	100,000
7. Kula Community Center, Maui Plans and construction for a community center complex and other appurtenances.	100,000
8. Lahaina Community Center, Maui Plans and construction for community center, including swimming pool and other improvements.	50,000
9. Pukalani Community Center, Maui Plans and construction for the extension of Pukalani Community Center building.	100,000
10. Wailuku Community Center, Maui Plans, land acquisition and construction for community center at Happy Valley.	45,000

### VW. COUNTY OF MAUI

(To be expended by the Maui County Board of Water Supply)

1. Water System Development, Maui County Districts Plans and construction for incremental development of water systems of Kula, Haiku-Makawao, Hana, and Kaunakakai-Ualapue-Pukoo-Waialua water projects.	500,000
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### III. CITY AND COUNTY OF HONOLULU

#### A. DEPARTMENT OF AGRICULTURE

(To be expended by the Department of Agriculture)

1. Hog Slaughterhouse Facilities, Oahu Study the feasibility of establishing and operating hogslaughter facilities on Oahu.	10,000
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#### B. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

1. Energy Savings Program in State Buildings for State Energy Office Program to implement minor CIP program to save energy in State buildings as a result of the recommendations of the energy audits.	60,000
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**C. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

1. Diamond Head State Park, Oahu Plans for park development along Monsarrat Avenue.	75,000
2. Diamond Head State Park, Oahu Plans and construction for the development of passive recreation park facilities in and around Diamond Head.	150,000
3. Kakaako Waterfront Park, Oahu Plans and construction for the development of a waterfront park and recreational facilities on the Fort Armstrong-Kewalo Peninsula. Funds in item III-C-5 of Act 9, Special Session Laws of Hawaii 1977 and unexpended funds in item IV-N-21-1 of Act 195, Session Laws of Hawaii 1975 may be used for this project.	500,000
4. Kawaihoa Temple, Oahu Plans and construction for historic restoration of temple. Grant-in-Aid.	10,000
5. Hui Waa Canoe Association and Hawaii Canoe Racing Association, Oahu Plans and construction for improvements to canoe shelter and storage areas. \$20,000 of the unencumbered balance from item IV-F-34 of section 91E, Act 226, Session Laws of Hawaii 1976 may be used for this project. Grant-in-Aid.	1,000
6. Mauka Kalihi Valley Recreation Area, Oahu Develop recreational use plans, management plans, and cost estimates for the development of a system of trails, swimming pools, access, parking and recreational facilities, for land acquisition as may be necessary.	20,000
7. Nanakuli Park Complex, Oahu Plans and construction for a park complex in Nanakuli at the old Camp Andrews site.	120,000
8. Aiea-Rainbow Bay, Oahu Supplemental appropriation for planning, land acquisition and development of the Aiea-Rainbow Bay Recreational Area.	397,000
9. Malaekahana Beach Park, Oahu Incremental acquisition by direct purchase, exchange or otherwise, planning and construction of TMK 5-6-01: parcels 6, 7, 11 thru 65, and approximately 20 acres at Makahoa Point TMK 5-6-02: por. 10. Unencumbered balances from item IV-N-1-2, item IV-B-22-1 and item I-B-2 of section 91, Act 195, Session Laws of Hawaii 1975 may be used in conjunction with this appropriation. Remaining funds may be used to purchase adjoining Hukilau Beach property, TMK 5-5-9: parcels 11 and 45. Provided that \$4 million in state funds hereby appropriated may be matched by federal funds as available and shall be used in conjunction with this appropriation.	475,000
10. Kahaluu District Park, Kahaluu, Oahu Acquisition, plans and construction for the development of the Kahaluu District Park.	185,000
11. Kuliouou Valley Park, Oahu Planning, designing, development and construction of recreational and other public facilities and improvements for a park at Kuliouou Valley in TMK 3-8-12 and TMK 3-8-13, including the initial land acquisition of a portion of TMK 3-8-13:1 (70 plus acres). To supplement prior appropriations.	160,000
12. Waahila Ridge State Park, Oahu Plans and construction of a caretaker's cottage at Waahila Ridge State Park, Honolulu, Oahu. (Unexpended balance in item III-C-13 of Act 9,	1,000

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Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)

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| 13. Nuuanu Stream, Oahu   | 250,000 |
| Plans and construction for the cleaning and improvement of Nuuanu Stream.   |         |
| 14. Waimanalo Flood Control and Irrigation Project, Oahu  | 35,000  |
| Plans for Waimanalo flood control and irrigation project in accordance with Federal Public Law 566.                           |         |
| 15. Farrington Highway Drainage Ditch, Oahu   | 80,000  |
| Plans and construction for drainage improvements fronting Farrington Highway between parcels TMK 8-5-13-14 and TMK 8-5-02-11. |         |
| 16. Manoa Stream, Oahu  | 55,000  |
| Plans, engineering, and construction for improvements to Manoa Stream, Oahu, to protect erosion of property along Stream.     |         |

### D. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

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| 1. Haleiwa Small Boat Harbor, Oahu   | 17,000  |
| Plans and construction for an open pavilion at the Haleiwa Small Boat Harbor.  |         |
| 2. Farrington Highway Traffic Lights, Oahu   | 80,000  |
| Plans and construction for traffic signal lights at Farrington Highway and Mailili Road.   |         |
| 3. Farrington Highway, Waipio Access Road and Kahualii Street, Oahu  | 1,000   |
| Plans and construction for improvements to the triangle area which is bounded by Farrington Highway, Waipio Access Road and Kahualii Street, and which fronts Waipahu High School. Funds authorized under items IV-C-3 and IV-F-206 of section 91E, Act 226, Session Laws of Hawaii 1976 shall be used for this project. |         |
| 4. Kahekili Highway, Oahu  | 190,000 |
| Plans and construction for resurfacing of Kahekili Highway between Kahupia Street and Ahuimanu Road.   |         |
| 5. Kalaniana'ole Highway and Ulukahiki Street, Oahu  | 2,500   |
| Plans and construction to install deflection barrier near bus stop.  |         |
| 6. Kamehameha Highway, Oahu  | 20,000  |
| Plans and construction for the installation of street lights from Poamoho Bridge to the Dole Pineapple Stand.  |         |
| 7. Kamehameha Highway, Oahu  | 20,000  |
| Plans and construction for the installation of street lights in vicinity of Waialea Livestock Research Station.  |         |
| 8. Kamehameha Highway, Oahu  | 25,000  |
| Plans and construction for installation of street lights from Kahuku bridge to Laie bridge.  |         |
| 9. Kamehameha Highway Bike Path, Haleiwa to Sunset Beach, Oahu   | 58,000  |
| Plans for a bike path from Haleiwa town to Sunset Beach.   |         |
| 10. Karsten Thot Bridge, Wahiawa, Oahu   | 50,000  |
| Preliminary plans for a dam crossing to replace Karsten Thot Bridge.   |         |
| 11. Kunia Road, Oahu   | 50,000  |
| Plans and construction for the installation of highway lights along Kunia Road between the H-1 Freeway and Wilikina Drive.   |         |

12. Likelike Highway Improvements, Kaneohe, Oahu Plans and construction for improvements at the intersection of Kamehameha Highway and Likelike Highway.	180,000
13. Likelike Highway, Oahu Plans and construction for an additional lane or road on or near Nalanieha Street at Likelike Highway.	10,000
14. Lualualei Road, Waianae, Oahu Plans and construction for improvements, including traffic lights, warning signs, and signals along Lualualei Road.	37,500
15. Moanalua Highway and Kulina Drive, Aiea, Oahu Land acquisition, plans and construction for a connecting roadway from Moanalua Highway to Kulina Drive.	195,000
16. Private Roadways Acquisition, Oahu Survey, planning and acquisition of private roadways throughout the 15th Representative District. The unencumbered balance of Item III-D-16, Act 9, Special Session Laws of Hawaii 1977, will be used to supplement this appropriation.	525,000
17. Private Roadways, Oahu Survey, planning, acquisition, and construction, including paving and repair of private roadways throughout the 21st Representative District.	79,500
18. Second Entrance to Wahiawa Town, Oahu Site selection and plans for a bridge to serve as a second entrance into Wahiawa.	67,000
19. Wilikina Drive Street Lights, Wahiawa, Oahu Plans and construction for installation of street lights on Wilikina Drive and Kaukonahua Road, across from Schofield Barracks.	8,000
20. Helicopter Landing Site Improvements, Oahu Supplement prior appropriation, plans and construction for safety equipment and improvements to helicopter landing site at Waianae Comprehensive Health Center, and Castle and Kahuku hospitals to meet army safety standards for Military Assistance for Safety and Traffic (MAST) flight operations. (Funds from item III-M-8, section 2 of Act 9, Special Session Laws of Hawaii 1977, shall be used for this project.) Grants-in-aid.	100,000
21. Kailua Beach Boat Ramp, Oahu Plans and construction for temporary repairs. Unencumbered balances in item IV-N-I-5 of Act 195, Session Laws of Hawaii 1975, shall be used to supplement this appropriation.	15,000
22. Kalaniana'ole Highway, Oahu Plans and construction to improve Kalaniana'ole Highway from Ainakoa to Hawaii Kai. (Supplements all prior appropriations.)	10,000
23. Pali Highway, Honolulu, Oahu Plans and construction to correct the roadway hazards currently existing on or adjacent to the Pali Highway near 2920 Pali Highway between Country Club Road and Ahipuu Street across the highway from Queen Emma's Summer Palace.	50,000
24. Kamehameha Highway between Wahiawa and Kahuku, Oahu Plans for improvements to Kam Highway between Wahiawa and Kahuku, including widening and re-alignment to conform to the State Traffic Safety Improvement Program.	100,000

E. DEPARTMENT OF EDUCATION

1. Aina Haina Elementary School, Oahu Plans and construction for installation of movable partitions to convert previous three on two classrooms and completion of library renovations.	60,000
2. Aina Haina Elementary School, Oahu Plans and construction for sight improvement and repainting of interior and exterior building walls. (Unexpended balance in item III-E-11 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	1,000
3. Aliamanu Elementary School, Oahu Plans and construction for a parking and bus loading zone.	80,000
4. Aliamanu Elementary School, Oahu Plans and construction for library expansion. To supplement prior appropriation.	154,000
5. Aliamanu Intermediate School, Oahu Plans and construction for sprinkler system.	1,000
6. Aliiolani Elementary School, Oahu Demolish auditorium and plans and construction for playcourt together with ground/site improvement.	53,000
7. Alvah Scott Elementary School, Oahu Plans and construction for expansion and improvements of the existing library. Supplements prior appropriation made for this purpose.	200,000
8. Anuenue Elementary School, Oahu Plans and construction for covered walkways connecting playground area to grass area.	2,000
9. August Ahrens Elementary School, Oahu Plans and construction for improvements including playcourts, playfield, pavement for playground equipment area, and supporting ground and site improvements.	80,000
10. Barber's Point Elementary School, Oahu Plans and construction to replace existing plumbing and ground and site improvements.	45,000
11. Blanche Pope Elementary School, Oahu Plans and construction for a playcourt.	10,000
12. Blanche Pope Elementary School, Oahu Plans and construction for converting 3 on 2 classrooms into self-contained classrooms.	20,000
13. Castle High School, Oahu Plans and construction for water fountain and comfort station.	25,000
14. Castle High School, Oahu Plans and construction for fencing.	10,000
15. Castle High School, Oahu Plans, construction and equipment for an auditorium. Unexpended balance from item IV-E-144 of Act 218, Session Laws of Hawaii 1974; items IV-F-2-2-, IV-F-3-1, IV-F-3-2, IV-F-5-2 of Act 195, Session Laws of Hawaii 1975; items IV-F-24, IV-F-27, IV-F-28, IV-F-29 and IV-F-30 of section 91E, Act 226, Session Laws of Hawaii 1976 shall be used for this project.	10,000
16. Castle High School, Oahu Plans and construction for drainage facilities, including covering of open gutter fronting Castle High School.	70,000

17. Castle High School, Oahu	105,000
Plans and construction for expansion of gymnasium and locker room facilities including a weight room.	
18. Central Intermediate School, Oahu	25,000
Master plan for Central Intermediate School.	
19. Dole Intermediate School, Oahu	30,000
Construction of fencing between Kalihi Valley Playground and Dole School campus.	
20. Dole Intermediate School, Oahu	30,000
Plans and construction for improvements and renovations to existing facilities.	
21. Enchanted Lake Elementary School, Oahu	33,000
Plans and construction for a covered walkway from the main school building to the library building.	
22. Ewa Elementary School, Oahu	25,000
Supplemental funds for plans and construction of serving kitchen/dining room and demolition of old kitchen; grounds and site improvements. Unencumbered balance in item V-F-10-3 of Act 195, Session Laws of Hawaii 1975, may be used for this project.	
23. Farrington High School, Oahu	5,000
Plans and construction for improvement of existing facilities (photography room) to meet Educational Specifications and Standards for Facility including major electrical repairs.	
24. Farrington High School, Oahu	70,000
Plans and construction for a green house.	
25. Hahaione Elementary School, Oahu	1,000
Plans and construction to improve ventilation system for Building H. (Unexpended balance in item IV-F-23-2 of Act 195, Session Laws of Hawaii 1975 may be used to supplement this appropriation.)	
26. Hahaione Elementary School, Oahu	1,000
Plans and construction for general site improvements, including an outdoor stage and long-range campus plan improvements for outdoor programs. (Unexpended balance in item IV-F-23-1 of Act 195, Session Laws of Hawaii 1975 may be used to supplement this appropriation.)	
27. Hawaii School for Deaf and Blind, Oahu	1,000
Plans and construction for a mini-gymnasium. (Unexpended balance in item III-E-42 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
28. Hawaii School for Deaf and Blind, Oahu	1,000
Plans and construction for a lanai roof for the primary building. (Unexpended balances in item IV-F-26-2 of Act 195, Session Laws of Hawaii 1975 and in item III-E-41 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
29. Heeia Elementary School, Oahu	25,000
Plans for conversion of classrooms to library and for converting present library into administrative offices.	
30. Heeia Elementary School, Oahu	7,000
Plans and construction for installation of drainage pipes in existing ditch and level front lawn.	
31. Helemano Elementary School, Oahu	61,000
Plans and construction for safety improvements to bus loading facilities.	

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32. Hickam Elementary School, Oahu Plans and construction for security lights.	25,000
33. Highlands Intermediate School, Oahu Plans and construction for implementation of the Complex Development Report.	100,000
34. Hokuani Elementary School, Oahu Plans and construction for improvements and repairs, including the enlargement of the entrance inside school property. (Unexpended balance in item IV-F-56 of Act 226, Session Laws of Hawaii 1976 may be used to supplement this appropriation.)	1,000
35. Hokuani Elementary School, Oahu Plans and construction for improvements and extension to library facilities. (Unexpended balance in item IV-F-25-2 of Act 195, Session Laws of Hawaii 1975 may be used to supplement this appropriation.)	1,000
36. Hokuani Elementary School, Oahu Plans and construction for art, music and science building. (Unexpended balance in item III-E-50 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	1,000
37. Honowai Elementary School, Oahu Plans and construction for completion of the unfinished classroom; renovation of existing classrooms to accommodate special education students; construction of ramp and/or stairway to correct hazardous conditions; and site improvements. Funds in item IV-E-120 of Act 218, Session Laws of Hawaii 1974 shall be used to supplement this appropriation.	30,000
38. Ilima Intermediate School, Oahu Plans and construction for safety improvements to bus loading and unloading zone.	40,000
39. Ilima Intermediate School, Oahu Plans and construction for facilities to implement a complex development report.	100,000
40. Iroquois Point School, Oahu Plans and construction for playcourts, ground and site improvements.	18,000
41. Jarrett Intermediate School, Oahu Plans and construction for renovations and expansion of bandroom.	50,000
42. Jarrett Intermediate School, Oahu Plans and construction for walkways, classroom buildings and renovation of necessary buildings.	35,000
43. Jefferson Elementary School, Oahu Plans and construction for completion of the administration building.	120,000
44. Kaala Elementary School, Oahu Plans and construction for modification of baseball backstop.	10,000
45. Kaewai Elementary School, Oahu Plans and construction for flood control improvements along drainage ditch adjacent to Kaewai Elementary School.	25,000
46. Kaewai Elementary School, Oahu Plans and construction for improvements to school grounds.	30,000
47. Kahala Elementary School, Oahu Plans and construction for renovation of administration counter, conversion of library to art and music centers, repair and replacement of jalousies, and related needs.	3,000



48. Kahuku High & Elementary School, Oahu	50,000
Plans and construction for athletic field improvements, including re-sodding, track-oil and cinder, and bleachers.	
49. Kahuku High and Elementary School, Oahu	12,000
Plans and construction for improvement of playground around new administration building.	
50. Kailua Intermediate School, Oahu	40,000
Plans and construction for renovation and improvements to the cafetorium.	
51. Kaimiloa Elementary School, Oahu	50,000
Plans for administration/library building; grounds and site improvements.	
52. Kaimuki High School, Oahu	55,000
Plans and construction for installation of new bleachers for gym.	
53. Kaimuki High School, Oahu	25,000
Plans and construction for covered walkways to connect upper levels of building A to building G and building H to building F.	
54. Kaimuki High School, Oahu	50,000
Supplement to prior appropriations to complete construction of auditorium.	
55. Kaimuki High School, Oahu	70,000
Plans and construction for improvements, including additional parking facilities next to gymnasium; and new bleachers for the gymnasium.	
56. Kaimuki High School, Oahu	34,000
Plans and construction for the repair and renovation of the existing swimming pool and related appurtenances. Unexpended balances of \$25,000 from item IV-N-22-2, Act 195, Session Laws of Hawaii 1975, shall be used for the purposes of this appropriation.	
57. Kaimuki High School, Oahu	100,000
Plans and construction for improvement to existing facilities, including interior and exterior painting of school.	
58. Kaimuki Intermediate School, Oahu	100,000
Construction of a gym recreation building complex at Kaimuki Intermediate School. Supplements prior appropriations made for this purpose.	
59. Kaiser High School, Oahu	182,500
Plans and construction for completion of stadium bleachers with women's restrooms, storage area,asket lockers, office space and security fence with gates surrounding stadium.	
60. Kaiser High School Community School Auditorium, Oahu	1,545,500
Plans and construction for an auditorium. All previous appropriations may be used to supplement this appropriation.	
61. Kaiser High School, Oahu	1,000
Plans and construction for the landscaping of the high school campus. Unexpended balances in item III-F-34 of Act 226, Session Laws of Hawaii 1976 may be used to supplement this appropriation.	
62. Kaiser High School, Oahu	25,000
Plans and construction for public restrooms near football field.	
63. Kaiser High School, Oahu	49,000
Plans and construction for resurfacing and relining track field to metric system.	
64. Kaiser High School, Oahu	182,000
Plans and construction for bleachers for field.	

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65. Kalaheo High School, Oahu	190,000
Supplementary funds for construction of a gymnasium.	
66. Kalihi Elementary School, Oahu	60,000
Plans and construction for installation of security screens in administration building and Building B ground floor and second floor.	
67. Kalihi-Uka Elementary School, Oahu	10,000
Plans and construction for renovation of surplus classroom into art and kiln room to meet safety standards.	
68. Kalihi-Waena Elementary School, Oahu	75,000
Plans and construction for installation of security screens on first floors of Buildings A, B, C, D, and Administration Building.	
69. Kapalama Elementary School, Oahu	62,400
Plans and construction for improvements to existing facilities.	
70. Keolu Elementary School, Oahu	35,000
Plans and construction for drainage and ground improvements.	
71. King Intermediate and High School, Oahu	10,000
Plans and construction for chain link fence.	
72. Kipapa Elementary School, Oahu	4,000
Plans and construction for fencing along Kuahelani Avenue.	
73. Laie Elementary School, Oahu	50,000
Plans and construction for paved playcourt and ground improvement of play area.	
74. Leilehua High School, Wahiawa, Oahu	50,000
Planning and installation of street-type lighting facilities along perimeter road behind the athletic field.	
75. Liholiho Elementary School, Oahu	10,000
Plans and construction for improvements of the existing drainage system to correct erosion of school grounds.	
76. Liholiho Elementary School, Oahu	10,000
Plans and construction for improvement of school grounds.	
77. Liholiho Elementary School, Oahu	100,000
Plans and construction for the renovation of cafetorium.	
78. Liliuokalani Elementary School, Oahu	73,000
Plans and construction for improvements, including soundproofing and air-conditioning of classrooms, reducing wind under breezeways, raising the fence, covering walkway to administration building and to cafeteria, and closing Mahina Street for parking. To supplement prior appropriations.	
79. Liliuokalani Elementary School, Oahu	50,000
Plans and construction for improvements to existing facilities, including painting of school buildings.	
80. Linapuni Elementary School, Oahu	3,000
Plans and construction for improvements to existing facilities to meet OSHA standards.	
81. Lincoln Elementary School, Oahu	100,000
Plans and construction for improvements to campus facilities and grounds, including improving campus drainage system.	
82. Lincoln Elementary School, Oahu	5,000
Plans and construction for library renovations.	

83. Lunalilo Elementary School, Oahu	55,000
Plans and construction for improvements and renovations to existing structures including conversion of rooms 18 and 19 of D building into a general purpose room.	
84. Maili Elementary School, Oahu	15,000
Plans and construction for installation of security screens and lights.	
85. Makaha Elementary School, Oahu	10,000
Plans and construction for installation of security screens, lights, and a six foot chain link fence.	
86. Makakilo Elementary School, Oahu	15,000
Plans and construction for air-conditioning of school library, security lighting for administration building, and grounds and site improvements.	
87. Makalapa Elementary School, Oahu	1,000
Plans and construction for a sprinkler system.	
88. Manoa Elementary School, Oahu	2,500
Plans and construction for installation of drinking fountain at Manoa School bus stop.	
89. Mauka Lani Elementary School, Oahu	15,000
Planning and construction of bi-fold type partitions for three classrooms.	
90. McKinley High School, Oahu	1,000
Plans and construction for 1st increment of Master Plan. Funds in item IV-E-55 of Act 218, Session Laws of Hawaii 1974; item IV-F-17-7 of Act 195, Session Laws of Hawaii 1975; item IV-F-147 of section 91E, Act 226, Session Laws of Hawaii 1976; item IV-F-148 of section 91E, Act 226, Session Laws of Hawaii 1976; item IV-F-149 of section 91E, Act 226, Session Laws of Hawaii 1976; and item IV-F-150 of section 91E, Act 226, Session Laws of Hawaii 1976 may be used for this project.	
91. Mililani High School, Oahu	200,000
Plans for gymnasium and supporting facilities and grounds and site improvements.	
92. Mililani High School, Oahu	25,000
Plans for varsity team locker room and restrooms.	
93. Mililani High School, Oahu	9,000
Plans and construction for a paved walkway from portable to library.	
94. Mililani-Waena Elementary School, Oahu	10,000
Plans and construction for an enclosed dining area.	
95. Mililani-Waena Elementary School, Oahu	4,000
Plans and construction for a chain link fence along Kipapa Drive.	
96. Moanalua Elementary School, Oahu	4,000
Plans and construction for a doorway between the workroom and office.	
97. Moanalua High School, Oahu	1,200,000
Planning and construction of a multi-purpose gymnasium. To be supplemented by prior appropriations.	
98. Moanalua High School, Oahu	5,000
Plans and construction for the installation and extension of a chain-linked fence along the makai perimeter of campus.	
99. Moanalua Intermediate School, Oahu	10,000
Plans and construction for a service driveway to practical arts Building.	

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100. Mokulele Elementary School, Oahu	20,000
Plans and construction for a sprinkler system and ground improvements for a new play area.	
101. Momilani Elementary School, Oahu	283,000
Plans and construction for a library, including ground and site improvements.	
102. Nanakuli Elementary School, Oahu	75,000
Plans and construction for fencing along Haleakala Avenue, Nanakuli Avenue, and the makai side of the school boundary, and the installation of a sprinkler system.	
103. Nanakuli High School, Oahu	15,000
Plans and construction for installation of security screens and lights.	
104. Niu Valley Intermediate School, Oahu	400,000
Plans and construction for renovation of library. (All previous appropriations may be used to supplement this appropriation.)	
105. Noelani Elementary School, Oahu	5,000
Plans and construction for chain link fence to complete existing fence.	
106. Palolo Elementary School, Oahu	17,000
Plans and construction for covered walkways connecting "L" Building to cafetorium and administration building to cafetorium.	
107. Palolo Elementary School, Oahu	1,000
Plans and construction for necessary security measures on Building "D". (Unexpended balance in item III-E-161 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
108. Palolo Elementary School, Oahu	1,000
Plans and construction for a retaining wall. (Unexpended balance in item III-E-160 of Act 9, Special Session Laws of Hawaii 1977, plus prior appropriations may be used to supplement this appropriation.)	
109. Palolo Elementary School, Oahu	1,000
Plans and construction for library renovations. (Unexpended balance in item III-E-159 of Act 9, Special Session Laws of Hawaii 1977, plus prior appropriations, may be used to supplement this appropriation.)	
110. Palolo Elementary School, Oahu	20,000
Plans and construction for covered play court storage space at Palolo Elementary School.	
111. Pearl City High School, Oahu	500,000
Land acquisition, plans and construction for landscaping and road improvements, including ground and site improvements.	
121. Pearl City High School, Oahu	327,000
Supplement prior appropriations for plans and construction of improvements to implement the master plan, including a varsity team locker room and restrooms, roadways and walkways, and grounds and site improvements. Unexpended funds from item IV-E-126 of Act 218, Session Laws of Hawaii 1974; item IV-G-41 of Act 195, Session Laws of Hawaii 1975; items IV-G-37, VIA-F-170 and VIA-F-171 of Act 226, Session Laws of Hawaii 1976 shall be used for this purpose.	
113. Pearl City Highlands Elementary School, Oahu	50,000
Plans and construction for playcourts, including ground and site improvements.	
114. Pearl Harbor Elementary School, Oahu	1,000
Plans and construction for a sprinkler system.	

115. Puohala Elementary School, Oahu	5,000
Plans and construction for installation of sliding doors in 3-on-2 classrooms which are being phased out.	
116. Radford High School, Oahu	20,000
Plans and construction for student parking.	
117. Radford High School, Oahu	75,000
Plans and construction for the replacement of football field lights.	
118. Red Hill Elementary School, Oahu	30,000
Plans and construction for conversion of 3 Type II classrooms to Type I classrooms.	
119. Red Hill Elementary School, Oahu	28,000
Plans and construction for conversion of 2 Type IV classrooms to Type II classrooms.	
120. Roosevelt High School, Oahu	15,000
Planning and construction for installation of smoke detection system at Roosevelt High School.	
121. Roosevelt High School, Oahu	100,000
Plans and construction for relocation of pole vault, high jump-long jump pits and runways, installation of student lockers in A-Building and securing them to wall, relocation of fire alarm pull station into the classrooms, construction of an announcer's booth on to the music building.	
122. Roosevelt High School, Oahu	25,000
Plans and construction for implementation of the Complex Development Report. Unencumbered funds from items IV-E-69, IV-E-70, IV-E-71, IV-E-72, IV-E-73, IV-E-74, IV-E-75, IV-E-76, IV-E-77, and IV-E-78 of Section 72A, Act 218, Session Laws of Hawaii 1974; items IV-F-13-5, IV-F-13-6, IV-F-13-7, IV-F-13-8, IV-F-13-9, IV-F-20-6, IV-F-20-7, IV-F-20-8, IV-F-20-9, and IV-F-20-10 of Section 91, Act 195, Session Laws of Hawaii 1977; and item III-E-173 of section 2, Act 9, Special Session Laws of Hawaii 1977, may be used for this project.	
123. Salt Lake Elementary School, Oahu	4,000
Plans and construction for tile retaining wall.	
124. Salt Lake Elementary School, Oahu	1,000
Plans and construction for a sprinkler system.	
125. Solomon Elementary School, Oahu	36,000
Plans and construction for a paved play area back of Building E, portable classroom and kindergarten area.	
126. Stevenson Intermediate School, Oahu	75,000
Plans and construction for renovation and/or relocation of library and administration offices.	
127. Stevenson Intermediate School, Oahu	50,000
Plans and construction for expansion and renovation of existing band room. Supplemental appropriation.	
128. Sunset Beach Elementary School, Oahu	50,000
Master planning of school, and plans and construction for first increment.	
129. Wahiawa Elementary School, Oahu	44,000
Plans and construction for improvements to include the changing of incandescent lights to fluorescent, completion of a chain link fence, installation of bathroom facilities for deaf and blind classrooms.	

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130. Wahiawa Intermediate School, Oahu	35,000
Plans and construction for renovation of roof and installation of new roofing on Industrial Arts Building.	
131. Waialae Elementary School, Oahu	1,000
Plans and construction for repairs to existing facilities. (Unexpended balance in item III-E-178 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
132. Waialae Elementary School, Oahu	1,000
Plans and construction to install four metal gates to secure Building "A". (Unexpended balance in item III-E-179 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
133. Waialua High School, Oahu	117,000
Plans and construction of bus loading zone and parking area.	
134. Waialua High School, Oahu	8,000
Plans and construction for storage shed of flammable materials.	
135. Waialua High School, Oahu	18,000
Plans and construction for the regrading and paving of parking lot entrance.	
136. Waianae Intermediate School, Oahu	10,000
Plans and construction for installation of security lights.	
137. Waiau II Elementary School, Oahu	530,000
Plans and construction for administration facility and a library.	
138. Wailupe Valley Elementary School, Oahu	1,000
Plans and construction for renovations. (Unexpended balance in item III-E-189 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
139. Waianae Elementary School, Oahu	10,000
Plans and construction for installation of security screens and lights.	
140. Waianae Elementary School, Oahu	500,000
Plans and construction for facilities to implement ultimate site study, including plans and construction of an eight classroom building, renovation of classrooms; grounds and site improvements.	
141. Waimalu Elementary School, Oahu	10,000
Plans and construction for renovation and expansion of the library, including air conditioning.	
142. Waimalu Elementary School, Oahu	6,000
Planning and installation of visual fire alarm system.	
143. Waimanalo Elementary & Intermediate School, Oahu	60,000
Plans and construction for the installation of night security lights.	
144. Waipahu Intermediate School, Oahu	300,000
Supplementary funds for plans and construction for new facilities and/or renovation of existing facilities as per Complex Development Report; to include changes in all prior appropriations so as to conform to Complex Development Report whenever possible.	
145. Wilson Elementary School, Oahu	1,000
Plans and construction for renovations. (Unexpended balance in item III-E-194 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
146. Kailua Branch Library Expansion, Oahu	100,000
Plans, construction and equipment for the auditorium addition.	

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| 147. Mililani Community Library, Oahu  | 250,000 |
| Plans and construction for a community library. Supplements prior appropriation. |         |

**F. UNIVERSITY OF HAWAII**

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|---|---------|
| 1. University of Hawaii Baseball Stadium, Oahu  | 400,000 |
| Plans and construction for grandstand, bleachers, dug-outs, locker/shower/restroom facilities.  |         |
| 2. Lyon Arboretum, Oahu   | 50,000  |
| Plans and construction for general improvements and renovations.  |         |
| 3. Manoa Stream Park, Oahu  | 100,000 |
| For development, land acquisition and planning.   |         |
| 4. Wind Energy Applications Testing Center  | 80,000  |
| A basic application testing center with satellite wind energy conversion systems (WECS) on each major Hawaiian island. Funds to be administered by Research Corporation of the University of Hawaii for Hawaii Natural Energy Institute. No matching funds required.                                |         |
| 5. Research and Development by the Hawaii Natural Energy Institute on underwater cable and Hydrogen Transmission alternatives to interconnect the Hawaiian Islands. Funds to be administered by Research Corporation of the University of Hawaii for N.N.E.I. No matching funds are to be required. | 50,000  |
| 6. Research and Development by the Hawaii Natural Energy Institute on non-electrical uses of geothermal energy. Funds to be administered by Research Corporation of the University of Hawaii for H.N.E.I. No matching funds are required.   | 40,000  |
| 7. Energy Saving Improvements for facilities and maintenance division to complete the remainder of UHM building audits, to identify quick-fixes and retrofits and implement program of all quick fixes and then the retrofits based on prioritizing of greatest savings potential.                  | 200,000 |
| 8. Waimanalo Experimental Farm, Oahu  | 1,000   |
| Plans, construction and equipment for a seed processing and storage facility. \$50,000 of the unencumbered balance from item III-U-50 of Act 9, Special Session Laws of Hawaii 1977 may be used for this project.   |         |
| 9. Waialeale Research Station, Oahu   | 290,000 |
| Planning and construction and renovation of livestock facilities.   |         |
| 10. Windward Community College, Oahu  | 10,000  |
| Plans and construction for an information center.   |         |

**G. DEPARTMENT OF DEFENSE**

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| 1. Diamond Head Crater, Oahu   | 150,000 |
| Plans and construction for restoration of land to include the demolition of eight abandoned buildings. |         |

**H. DEPARTMENT OF HEALTH**

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| 1. Castle Memorial Hospital, Oahu  | 801,000 |
| Grant-in-Aid. Plans and construction for expansion and renovation of emergency room and radiology facilities. \$144,000 of the unencumbered balance from item IV-F-5-8 of Act 195, Session Laws of Hawaii 1975 may be used for this project. (To be expended by the Department of Health.) |         |

2. Kapiolani Hospital, Oahu	950,000
Plans and construction for development of Kapiolani Hospital's new Shared Services Building. Grant-in-Aid. (To be expended by the Department of Health.)	
3. Leahi Hospital, Oahu	30,000
Plans and construction for the replacement of the existing ceiling in the hospital's kitchen in order to meet fire and safety standards.	
4. Leahi Hospital, Oahu	125,000
Plans and construction for general improvements.	
5. Children's Hospital, Oahu	100,000
Planning and construction of patient units and other related facilities. Grant-in-Aid. (To be expended by the Department of Health.)	
6. Kuakini Medical Center, Oahu	100,000
Planning, construction, and equipping of the progressive health care building which will house a 150-bed care home for the elderly, a day care center for 100 elderly people, and a 100-bed intermediate care facility. Grant-in-Aid. (To be expended by the Department of Health.)	
7. St. Francis Hospital, Oahu	125,000
Plans and construction for modernization of patient units and other related facilities. Grant-in-Aid. (To be expended by the Department of Health.)	
8. Hale Mohalu, Oahu	200,000
Planning, design and construction of facilities for leprosy patients at present Hale Mohalu site, not to exceed 1.2 acres of land.	
9. Wahiawa Child Development Center, Oahu	50,000
Planning and construction of lanai enclosures and partitions necessary to create three additional rooms.	
10. Rehabilitation Hospital of the Pacific, Oahu	1,000
For acquisition of land for lease to the Rehabilitation Hospital of the Pacific, Oahu, for development of medical rehabilitation programs and facilities. (Unexpended amounts from item IV-H12-2 of Act 195, Session Laws of Hawaii 1975, part VI, section 91; item III-M-8 of Act 226, Session Laws of Hawaii 1976, part VIA, section 91F; and item IV-D-4 of Act 218, Session Laws of Hawaii 1974, part IVA, section 72A, shall be used for this project.) (To be expended by the Department of Health)	

**K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

(To be expended by the Department of Social Services and Housing)

1. Hauiki Project, Oahu	16,600
Plans and construction for installation of security lights on buildings in parking areas and streets.	
2. Kalihi Valley Homes, Oahu	50,000
Plans and construction for grounds improvements to include construction of retaining wall along portions of chain link fence adjacent to Elike Highway.	
3. Kalihi Valley Homes, Oahu	160,000
Plans and construction for heater enclosures with storage cabinet.	
4. Waimanalo Homes, Oahu	40,000
Plans and construction for the development of a park and community center.	



5. Waimanalo Homes, Oahu	84,000
Plans and construction for the installation of rain gutters and downspouts, canopies over entrance doors and renovation to kitchens.	
6. Lanakila Craft Center, Wahiawa, Oahu	25,000
Plans and construction for improvements to include major roofing repairs. Grant-in-Aid.	
7. Kualoa-Heeia Ecumenical Youth Project	50,000
Planning, engineering and construction of a community activities center. Grant-in-Aid.	
8. Waimanalo Services Center, Oahu	25,000
Plans and construction of a paved parking area.	
9. Hauiki Housing Project, Oahu	8,000
Plans and construction for a chain-link fence at the Hauiki Housing Project, Oahu.	
10. Makua Alii, Oahu	42,000
Plans and construction for installation of a security bell system at Makua Alii, Oahu. Grant-in-Aid.	
11. Palolo Housing, Oahu	1,000
Plans and construction to provide non-skid material on interior and exterior steps. (Unexpended balance in item III-K-10 of Act 9, Special Session Laws of Hawaii 1977, may be used to supplement this appropriation.)	
12. Palolo Housing, Oahu	1,000
Plans and construction to renovate heater enclosures and to paint State funded buildings to conform with federally funded buildings. (Unexpended balance in item III-K-11 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
13. Palolo Housing, Oahu	1,000
Plans and construction for general improvements to existing buildings and grounds. (Unexpended amount from item III-K-11 of Act 9, Special Session Laws of Hawaii 1977 shall be used for this project.)	
14. Kaahumanu Housing, Oahu	1,000
Plans and construction for general improvements to existing buildings and grounds. (Unexpended amounts from item IV-I-1 of Act 226, Session Laws of Hawaii 1976, part VIA, section 91E; item IV-I-15-1 of Act 195, Session Laws of Hawaii 1975, part VI, section 91; and item IV-F-3 of Act 218, Session Laws of Hawaii 1974, part IVA, section 72A.)	
15. Elderly Housing, Manana, Oahu	1,000
To augment federal funds in the construction of federally-aided low-income rate housing for the elderly in Manana. (Sum to be expended if bid exceeds federal appropriations. The sums may also be expended for planning and construction of community facilities.) (Unexpended balance in item VI-I-11-1 of Act 195, Session Laws of Hawaii 1975, shall be used for this project.)	
16. Mokuola Street Improvements, Waipahu, Oahu	125,000
Planning and construction of roadway and improvements necessary to complete Mokuola Street in Waipahu, Oahu.	

#### M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

1. Capitol Mall, Oahu	25,000
Plans and construction for installation of decorative light fixtures appropriate for grounds between Iolani Palace and Capitol building.	

2. Salt Lake Boulevard, Oahu 100,000  
Plans and construction for improvement of Salt Lake Boulevard from Hala-  
wa Heights Road to Kalaloa Street. Unexpended balances from item III-  
M-007 of Act 9, Special Session Laws of Hawaii 1977, item III-B 6 of  
section 91E of Act 226, Session Laws of Hawaii 1976, items IV-N-11-9,  
IV-N-12-10, IV-N-12-11 of Act 195, Session Laws of Hawaii 1975, and  
items IV-J-64 of Act 218, Session Laws of Hawaii 1974, shall be used for  
the project.
3. Atherton YMCA, Honolulu, Oahu 100,000  
Site improvements for Atherton YMCA building (corner University and  
Metcalf). Grant-in-Aid.
4. Waikiki Community Center, Oahu 100,000  
Plans for Waikiki Community Center.
5. Palama Settlement, Honolulu, Oahu 145,000  
Plans and construction for renovation of Palama Settlement buildings.  
Grant-in-Aid.

**D. DEPARTMENT OF BUDGET AND FINANCE**

1. Hawaii Sports Hall of Fame, Oahu 329,000  
Plans and construction for a Hall of Fame complex at Aloha Stadium in-  
cluding the purchase of equipment. Unexpended balances in items IV-F-  
147, IV-F-163 and IV-F-169 of Act 218, Session Laws of Hawaii 1974 and  
\$58,100 of the unencumbered balance from item IV-I-34 of section 91E, Act  
226, Session Laws of Hawaii 1976 may be used for this project. (To be  
expended by the Stadium Authority.)
2. Hawaii State Senior Center, Oahu 33,000  
Plans and construction for improvements to existing facilities.
3. Windward Art Center, Oahu 60,500  
Site selection and plans for a center for performing and visual arts. To  
supplement funds in item IV-M-3 of section 91E, Act 226, Session Laws of  
Hawaii 1976. Grant-in-Aid.

**E. CITY AND COUNTY OF HONOLULU**

(To be expended by the City and County of Honolulu)

1. Aiea Senior Citizen Center, Oahu 300,000  
Plans and construction for a multi-purpose facility. Unexpended balance  
from item III-U-1 of Act 9, Special Session Laws of Hawaii 1977 shall be  
used for this project.
2. Diamond Head, Oahu 1,000  
Completion of construction of site improvements and landscaping for major  
sightseeing area at Kuilei Cliffs, Diamond Head, Oahu. (Unexpended  
balance in item III-U-5 of Act 9, Special Session Laws of Hawaii 1977  
may be used to supplement this appropriation.)
3. East Manoa Road Improvements, Oahu 150,000  
Plans and construction for reconstruction of East Manoa Road from Gore  
Way to Pakanu Street, Oahu.
4. Enchanted Lake Park Courts, Kailua, Oahu 35,000  
Plans and construction for renovation of court lights and resurfacing of  
courts (to be matched by City and County of Honolulu).
5. Ewa Beach Sewer Treatment Plants, Oahu 120,000  
Plans and construction to improve and repair private sewer treatment plants  
in Ewa Beach. Grants-in-Aid. Unencumbered balances from item IV-N-69

of section 91E, Act 226, Session Laws of Hawaii 1976, may be used to supplement this project.	
6. Farrington Highway Drainage, Oahu	50,000
Plans and construction for a drainage system to divert runoff from the area bounded by Farrington Highway, Waipahu Depot Street and Hikimoe Street, that shall follow along Farrington Highway in a westerly direction and empty into Kapakahi Stream.	
7. Hamakua Road, Kailua, Oahu	542,000
Planning, land acquisition and construction for completion of Hamakua Road. Unencumbered balance in item III-U-53 of Act 9, Special Session Laws of Hawaii 1977 shall be used to supplement this appropriation.	
8. Hawaii Kai, Oahu	50,000
Acquisition of sewer system.	
9. Hawaii Kai Communities Council, Oahu	110,000
Grant-in-Aid for a human services center including delivery of, but not limited to, following services: 1) General Health Care; 2) Emergency Care; 3) Family Planning; 4) Adolescent Services; 5) Senior Citizen Services; 6) Counseling Services.	
10. Heeia Playground, Oahu	1,000
Plans and construction for lights for the playground area. Unexpended balance from item IV-N-2-1 of Act 195, Session Laws of Hawaii 1975, shall be used for this project.	
11. Honokai Hale Park, Oahu	75,000
Plans and construction for ball courts, comfort stations, and ground and site improvements. Unexpended balances in item III-U-9, Act 9, Special Session Laws of Hawaii 1977, may be used to supplement this project. To be matched by funds from the City and County of Honolulu.	
12. Kaalakei Park, Oahu	1,000
Plans and construction for development of Kaalakei Park. (Unexpended balance in item III-U-10 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
13. Kahaluu Civic Center, Oahu	159,000
Plans and construction for the development of land for the Kahaluu Civic Center in conjunction with the Kahaluu District Park and Flood Control Project.	
14. Kahaluu Playground, Oahu	20,000
Plans and construction for baseball dugouts.	
15. Kahaluu Street, Resurfacing, Oahu	50,000
Plans and construction to complete resurfacing of Ahaolelo Road, Mapele Road, Uapuaiahala Place, Mapele Place, Waihee Place, Mapumapu Road, Mahakea Road and Pulama Place.	
16. Kahuku District Park	250,000
Planning, engineering, and construction of a baseball field, outdoor courts, tennis courts, landscaping sprinkler system, and relocation.	
17. Kailua Gymnasium, Kailua Field, Oahu	100,000
Plans and construction for a gymnasium. The unencumbered balance in item IV-N-4-2 of Act 195, Session Laws of Hawaii 1975, shall be used to supplement this appropriation.	
18. Kailua Playground, Oahu	405,000
Plans and construction for improvements and renovations to Kailua Playground, including a gymnasium.	

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19. Kakela, Oahu	1,058,000
Acquisition of Kakela for park purposes, being 11.115 acres, TMK parcel 5-5-01-54, located at Hauula, Oahu.	
20. Kalakaua Gymnasium, Oahu	6,500
Plans and construction for installation of modern basketball court back-board facilities.	
21. Kalihi Street Bridge, Upper Kalihi Valley, Oahu	25,000
Plans and construction for Kalihi Street Bridge over Kalihi Stream in Upper Kalihi Valley.	
22. Kaluapuhi Park, Oahu	100,000
Plans and construction for improvements including fencing of the makai boundary from Keana Street to Popoki Street, basketball and volleyball courts, lighting at courts, and a comfort station.	
23. Kamaikai Stream, Oahu	25,000
Plans and engineering for flood control.	
24. Kaneohe Playground, Oahu	40,000
Plans and construction for a comfort station. Funds are to be matched by the City and County of Honolulu.	
25. Kanewai Park, Oahu	250,000
Plans and construction for development of approximately 4½ acres of undeveloped land between Kanewai Park and Manoa Stream for park purposes.	
26. Kanewai Playground, Oahu	1,000
Plans and construction to replace terrace with roofing between administration building and restrooms. (Unexpended balance in item III-U-21 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
27. Kanewai Playground, Oahu	1,000
Plans and construction to install automatic sprinkler system for the field. (Unexpended balance in item III-U-22 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
28. Kapahulu Avenue, Oahu	50,000
Plans and construction for installation of traffic light system and improvement of intersection at Kapahulu Avenue-Palani Avenue-Winam Avenue. To be matched by funds from the City and County of Honolulu.	
29. Kapahulu Improvements, Oahu	60,000
Plans and construction for sidewalks, gutters, utilities and other neighborhood modernization similar to that begun but not completed in the area. (Unexpended balance in item III-U-56 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
30. Kapahulu Multi-Purpose Community Center, Oahu	395,000
Land acquisition, plans and construction of a multi-purpose community center in Kapahulu.	
31. Kapahulu Senior Community Center, Oahu	105,000
Land acquisition, plans and construction of multi-purpose senior community center.	
32. Kapalama Canal, Honolulu	400,000
Plans and construction for cleaning, improvements and beautification. (Plans and expenditures are subject to prior approval by the Department of Budget and Finance to insure proper implementation.)	

33. Kapaolono Park, Oahu	1,000
Grant-in-aid for plans and construction for improving existing facilities. (Unexpended balance in item III-U-23 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
34. Kapiolani Park, Oahu	200,000
Plans and construction for a new tennis center building, bleachers and parking located in Kapiolani Park, Waikiki.	
35. Kaulike Drive Relief Drain, Oahu	17,000
Plans, designs and construction for a relief drain along Kaulike Drive, Pearl City.	
36. Kawainui Community Park, Oahu	100,000
Land acquisition, planning and development. Unencumbered balances in item III-N-14, section 91F of Act 226, Session Laws of Hawaii 1976, shall be used to supplement this appropriation.	
37. Keapuka Triangular Park, Oahu	100,000
Land acquisition, plans and construction for a park, including ground and site improvements.	
38. Keolu Hills Playground, Kailua, Oahu	125,000
Plans and construction for installation of sprinkler system, and lights for volleyball and basketball courts and stairway. Funds are to be matched by the City and County of Honolulu.	
39. Koko Head District Park, Oahu	1,000
Plans and construction for tennis courts. (Unexpended balance in item III-U-25 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
40. Koko Head District Park, Oahu	1,000
Plans and construction for skating and skateboarding facilities. (Unexpended balance in item III-U-26 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
41. Kuakini Extension Road, Oahu	10,000
Plans and construction for Road improvements to include sidewalk facilities.	
42. Kuhio Beach Park, Oahu	200,000
Plans and construction for a new bathhouse, landscaping and comfort station in the promenade area of the new Waikiki Beach Center, including demolition of existing structures located at the Kuhio beach Park.	
43. Kupehau Park, Oahu (Former Kalihi-Uka Park)	250,000
Plans and construction for development of portions of TMK 1-4-06-51 and 1-4-17-2 into a recreational park.	
44. Lanakila Playground, Oahu	25,000
Plans and construction for improvement to site fencing, walkways, retaining walls, drainage facilities.	
45. Lanakila Playground, Oahu	150,000
Purchase of equipment for gymnasium.	
46. Makiki District Park, Oahu	350,000
Plans and construction of site improvements including outdoor courts and continuation of renovations to existing buildings.	
47. Manoa Recreation Center, Oahu	100,000
Plans and construction for additional tennis courts, including lighting and plans and construction of golf cage.	

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48. Maunalani Heights Playground, Oahu	225,000
Plans and construction for incremental renovations and improvements.	
49. Maunawili Road, Oahu	10,000
Plans and construction for bikeway and footpaths to be included in street widening of Maunawili Road between Lunahelu Street and Aloha Oe Drive. Unexpended balances in Item IV-N-3-5 of Act 195, Session Laws of Hawaii 1975, will be used for this appropriation.	
50. Mililani District Park, Mililani, Oahu	201,000
Planning and construction of a gymnasium/recreation center at Mililani District Park, Oahu. (Unexpended funds from Act 195, Session Laws of Hawaii 1975, items VI-N-7-2 and VI-N-8-1 of section 91 shall be used for this project.)	
51. Moanalua Pedestrian Overpass, Oahu	100,000
Plans and construction for a pedestrian overpass from Aiea Elementary School to the Aloha Stadium, traversing the H-1 interchange ramp and the Stadium Circle Road.	
52. Moiliili Field, Oahu	15,000
Plans and construction for improvements to Moiliili Field.	
53. Na Pueo Park (Alewa Heights), Oahu	25,000
Plans and construction for additional development of previously acquired site. Unexpended funds from item III-U-40, Act 9, Special Session Laws of Hawaii 1977 will be used to supplement this appropriation.	
54. Nehu Park, Oahu	10,000
Plans and construction for comfort stations to accommodate baseball teams and others using park.	
55. Niu Valley Community Park, Oahu	1,000
Plans and construction for tennis courts and comfort station. (Unexpended balance in item III-U-41 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
56. Paani Street, Oahu	400,000
Plans and construction for improvements of the Paani Street drainage system. Unexpended balances from item IV-N-19-3 of Act 195, Session Laws of Hawaii 1975, shall be used for this appropriation.	
57. Paki Avenue Bikeways, Oahu	250,000
Plans and construction for bikeways on Paki Avenue between Kapahulu Avenue and Kalakaua Avenue, Waikiki.	
58. Paki Park, Oahu	40,000
Plans and construction for improvement and renovation of existing facilities. To supplement prior appropriation.	
59. Palolo Neighborhood Playground, Oahu	275,000
Plans and construction for tennis courts at Palolo Neighborhood Playground.	
60. Palolo Playground, Oahu	1,000
Plans and construction for outdoor courts and improvement and construction of field lights. (Unexpended balance in item III-U-43 of Act 9, Special Session Laws of Hawaii 1977, plus prior appropriations, may be used to supplement this appropriation.)	
61. Private Sewer System, Hawaii Kai, Oahu	500,000
Acquisition of the private sewer system in Hawaii Kai. To be matched by City and County of Honolulu funds.	

62. Puohala Playground, Oahu	10,000
Plans and construction for lights at playground.	
63. Puu Panini and 22nd Avenue Improvements, Oahu	135,200
Plans and construction for box drain and intercept. Supplements prior appropriations made for this purpose; provided that funds shall be granted on a fifty per cent matching basis, and provided further that any damage to the surface condition of 22nd Avenue shall be satisfactorily repaired.	
64. Senior Center and Recreational Park, Maili, Oahu	20,000
Plans for the development of the former Voice of America property as a Senior Center and Recreational Park.	
65. Sewer Lines, 9th Representative District, Oahu	150,000
Plans and construction for enlargement of sewer lines in the 9th Representative District.	
66. Special Hill Climbing Buses, Oahu	75,000
Purchase of buses to serve but not be limited to the Waialae Nui Ridge area.	
67. State-Wide Jogging Paths	114,000
Plans and construction for jogging paths throughout the State.	
68. Traffic Light Improvements, Oahu	5,000
Plans for installation of traffic lights at the intersection of North School Street and Aala Extension.	
69. Waianae Regional Park, Oahu	100,000
Planning and construction for installation of lighting facilities for tennis courts.	
70. Waiau District Park, Pearl City, Oahu	100,000
Plans and construction for development of park site at Waiau, Pearl City, Oahu. (To be matched by the City and County of Honolulu.)	
71. Wailehua Road Drainage Project, Oahu	50,000
Plans and construction for drainage project.	
72. Wailupe Community Park, Oahu	1,000
Plans and construction for field grading and access improvement from Wailupe Valley School. (Unexpended balance in item III-U-48 of Act 9, Special Session Laws of Hawaii 1977 may be used to supplement this appropriation.)	
73. Waimanalo Athletic Complex, Oahu	229,000
Plans and construction for the new athletic complex, including ground improvements. Supplements prior appropriation. \$6,000 of the unencumbered balance from item IV-F-5-8 of Act 195, Session Laws of Hawaii 1975; and \$16,900 of the unencumbered balance from item IV-F-34 of section 91E, Act 226, Session Laws of Hawaii 1976; and the unexpended balances from items IV-F-5-3 and 5 of Act 195, Session Laws of Hawaii 1975 may be expended for this project.	
74. Waipahu Cultural Garden Park, Oahu	176,000
Plans and construction for Phase I. Supplements prior appropriation.	
75. Walker Avenue, Oahu	15,000
Plans and construction for installation of street lights leading to Lanakila Craft Center, Wahiawa.	

**UW. CITY AND COUNTY OF HONOLULU**

(To be expended by the Board of Water Supply)

1. Ala Moana Boulevard Water Main, Part I—Kakaako, Oahu	365,000
Plans and construction for a 12-inch water main and appurtenances along	

Ala Moana Boulevard from South Street to Fort Street.		
2. Kaaui Street, Oahu	Plans and construction for the installation of an 8-inch water main and appurtenances along Kaaui Street from 7th Avenue to 10th Avenue, Palolo.	80,000
3. Kahuku Water Development, Kahuku, Oahu	Water source investigation, planning, engineering, land acquisition and construction of water delivery system.	400,000
4. Kaimuki, Oahu	Land acquisition, plans and engineering for installation of an 8-inch water main and appurtenances along Keanu Street from 13th Avenue to Ekaha Street. To be matched by funds from the City and County of Honolulu.	22,000
5. Kaimuki, Oahu	Land acquisition for installation of an 8-inch water main and appurtenances along Olu Street from 4th Avenue to 6th Avenue and along 6th Avenue from Mooheau Avenue to Charles Street. To be matched by funds from the City and County of Honolulu.	3,000
6. Kapiolani Boulevard, Oahu	Plans and construction for installation of 12-inch water main and appurtenances along Kapiolani Boulevard from Kalakaua Avenue to McCully Street.	140,000
7. Lehua Street, Kalihi-Uka, Oahu	Plans and construction for installation of an 8-inch water main and appurtenances along Lehua Street from Nihi Street to the end of Lehua Street.	58,000
8. Lilipuna Road Water Main, Kaneohe, Oahu	Part I—Kaneohe. Plans and construction for installation of 8-inch water main and appurtenances along Lilipuna Road from Yacht Club Street toward Kahanahou Circle.	100,000
9. Lime Street, Oahu	Plans and construction for installation of an 8-inch water main and appurtenances along Lime Street from Makiki Drainage Ditch to McCully Street.	121,600
10. Nihi Street, Oahu	Plans and construction for an 8-inch water main and appurtenances.	103,500
11. 16th Avenue Water Main, Kaimuki, Oahu	Plans and construction for installation of an 8-inch water main and appurtenances along 16th Avenue from Claudine Street to Keanu Street.	64,800

#### IV. COUNTY OF KAUAI

##### C. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

1. Hanapepe Drainage Facilities, Kauai	Land acquisition, plans, and construction for drainage facilities in Hanapepe along Kaunualii Highway. Prior appropriation in item IV-C-1, Act 9, Special Session Laws of Hawaii 1977 shall be used for this purpose.	1,000
2. Public Hunting Lands, Kauai	Plans and construction for habitat improvement, game bird propagation and release, trail installation and maintenance for public hunting on Kauai.	50,000



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| 3. Hanalei, Kauai   | 40,000 |
| Plans, including feasibility study, and land acquisition for wetland agricultural park. |        |

**D. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

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| 1. Kukuiula Small Boat Harbor, Kauai  | 25,000 |
| Plans and construction of a surge protection wall.  |        |
| 2. Protective Barrier for Small Boats, Kauai  | 50,000 |
| Plans and construction for a protective barrier for small boats at the Nawiliwili breakwater. |        |
| 3. Waikaea Canal, Kauai   | 40,000 |
| Plans, survey, soundings, and construction for dredging of Waikaea Canal for boat traffic.    |        |
| 4. Nawiliwili Road Safety Improvements, Kauai   | 25,000 |
| Plans and construction for realignment of Nawiliwili Road intersecting Kamualii Highway.      |        |

**E. DEPARTMENT OF EDUCATION**

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| 1. Kapaa Elementary School, Kauai  | 50,000  |
| Plans and construction for multi-purpose dining room with stage, including equipment for the facility.   |         |
| 2. Kapaa Elementary School, Kauai  | 150,000 |
| Plans and construction for ground improvement and campus beautification including chain link fence surrounding elementary school, landscaping of campus, and extension of bus loading and unloading areas. |         |
| 3. Kekaha Elementary School, Kauai   | 30,000  |
| Plans to construct two (2) special education classrooms.   |         |
| 4. Kilauea Elementary School, Kauai  | 50,000  |
| Plans and construction for combined outdoor paved basketball and volleyball court with tennis instruction backboard.   |         |
| 5. Kilauea Elementary School, Kauai  | 5,000   |
| Plans and construction for clearing and site improvements for the development of an outdoor environmental education program on two (2) acres of unused land.   |         |
| 6. Hanalei Elementary School, Kauai  | 50,000  |
| Plans and construction for temporary placement of two (2) classroom buildings to meet increased enrollment.  |         |
| 7. Koloa Elementary School, Kauai  | 100,000 |
| Plans and construction for combined playcourts including equipment and storage.  |         |
| 8. Wilcox Elementary School, Kauai   | 150,000 |
| Plans and construction for renovation and improvements to the District Severely Multi-Handicapped Center. Supplements prior appropriations.  |         |

**F. UNIVERSITY OF HAWAII**

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| 1. Wailua Experiment Station, Kauai  | 50,000 |
| Plans and construction for development of a taro harvesting machine, including research. |        |

**H. DEPARTMENT OF HEALTH**

1. Samuel Mahelona Hospital, Kauai 11,000  
Plans and construction for various improvements and materials for wards, occupational therapy building and hospital vehicle garage.
2. Wilcox Memorial Hospital, Kauai 1,000  
Plans, construction, equipment, furnishings and related appurtenances for additional laboratory facilities; or renovations and expansion for a dietary/nutrition facility including equipment. To be supplemented by funds in item IV-H-2, Act 9, Special Session Laws of Hawaii 1977. Grant-in-aid. (To be expended by the Department of Health.)
3. G. M. Wilcox Memorial Hospital, Kauai 262,000  
Plans and construction for the first phase of a total energy self-sufficiency program for G. M. Wilcox Memorial Hospital. Grant-in-aid. (To be expended by the Department of Health.)
4. Samuel Mahelona Memorial Hospital, Kauai 33,000  
Plans and construction for additions, renovations, and remodeling of medical, psychiatric, mental retardation, and ancillary facilities. Unexpended balances from Act 218, Session Laws of Hawaii 1974, item III-E-3; Act 218, Session Laws of Hawaii 1974, item III-E-2; Act 10, Special Session Laws of Hawaii 1977, item E-6; Act 195, Session Laws of Hawaii 1975, item E-12; Act 195, Session Laws of Hawaii 1975, item V-H-3 may be used for this project.

**I. DEPARTMENT OF HAWAIIAN HOME LANDS**

(To be expended by the Department of Hawaiian Home Lands)

1. Hawaiian Homes Community Center, Kauai 15,000  
Plans and construction for extension of existing building.

**K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

(To be expended by the Department of Social Services and Housing)

1. Rehabilitation Unlimited Kauai, Kauai 20,000  
Site selection, plans and construction for building and other facilities. Grant-in-Aid.

**X. COUNTY OF KAUAI**

(To be expended by the County of Kauai)

1. A. K. Vidinha Stadium, Kauai 1,000  
Land acquisition, plans and construction for improvements and expansion to the stadium complex. Unexpended balance from Act 218, Session Laws of Hawaii 1974, item G-3 may be used for this project.
2. Akulekule Bridge, Kauai 1,000  
Plans and construction for replacement of existing bridge. Unexpended balance from Act 226, Session Laws of Hawaii 1976, item VN-5 may be used for this project.
3. Kalaheo Multi-Purpose Center, Kauai 205,000  
Plans and construction for a new multi-purpose and recreational center to include community center, gymnasium, swimming pool, tennis courts, and related facilities. Unexpended balances from Act 195, Session Laws of Hawaii 1975, item VN-22; Act 195, Session Laws of Hawaii 1975; item VN-20 may be used for this project.
4. Kekaha Park, Kauai 1,000  
Plans and construction for improvement to H. P. Faye Park and Kekaha Beach Park. Unexpended balance from Act 218, Session Laws of Hawaii

1974, item G-18 may be used for this project.

5. Kukuilono Golf Course, Kauai	50,000
Feasibility study, plans and construction for general improvements to Kukuilono Golf Course.	
6. Sleeping Giant Lookout, Kauai	20,000
Plans and construction for access and parking for the Sleeping Giant Lookout. To supplement prior appropriations.	
7. Wailua Golf Course, Kauai	50,000
Plans and construction for additional nine holes at Wailua Golf Course.	
8. Akia Road, Kauai	20,000
Plans and construction for improvements to Akia Road including right-of-way acquisition.	
9. Kauai County General Plan Review and Revision, Kauai	5,000
Plans for General Plan review, update and revision.	
10. Lihue Sewerage System, Kauai	105,000
Plans and construction for sewage treatment facilities, pump stations, force mains, interceptor and sewers.	
11. New Kapaa Ball Park, Kauai	23,000
Plans and construction for expansion of old park to include baseball, softball, practice fields and additional tennis courts, parking areas, fencing, sprinkler systems, basketball court and restrooms.	
12. Solid Waste Program for County of Kauai	55,000
Plans, construction and equipment for sanitary landfills and solid waste transfer stations in various locations around the island.	
13. Waimea Sewerage System, Kauai	30,000
Plans and construction for emergency generator and sewers.	
14. Waimea Visitor Information Center/Museum, Kauai	75,000
Plans and construction for a visitor information center/museum, including program study/technical assistance.	

#### XW. COUNTY OF KAUAI

(To be expended by the Board of Water)

1. Waimea Water System, Kauai	1,000
Plans and construction for development, including water source pumps, controls, connecting main and related appurtenances, storage tank (IMG), and connecting main. Unexpended balance from Act 9, Special Session Laws of Hawaii 1977, item IV-XW-1 may be used for this project.	
2. Hanapepe Water System, Kauai	400,000
Plans and construction for transmission main and related appurtenances.	

#### V. STATEWIDE

##### B. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

1. State Warehouse Manufacturing Facilities	1,000,000
Land acquisition, plans, and construction for warehouse/manufacturing facilities to be leased to Hawaii manufacturers of Hawaiian products.	

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| 2. State Fishery Freezing and Cooling Facility<br>Land acquisition, plans, and construction for a State fishery freezing and cooling facility for the Hawaii fishing industry.   | 450,000   |
| 3. State Transport for Hawaiian Products<br>Experimental cargo transports for inter-island transportation of agriculture, floral and other Hawaiian products to establish methods of extending the shelf-life of such products.  | 450,000   |
| 4. Economic Development Projects<br>Land acquisition, plans, machinery, equipment, and fixtures for the development of agricultural, industrial, or commercial enterprises with the lessee or buyer paying an annual rental or making payments at least adequate to meet interest and principal payments for the State's issuance of economic development bonds to finance such enterprises. | 1,000,000 |
| 5. Foreign Trade Zone Annex Facilities<br>Land acquisition, plans and construction for Foreign Trade Zone Annex facilities in Hawaii, Maui, and Kauai Counties to facilitate the assembly operations of exported and imported goods.   | 1,000,000 |

**C. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

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| 1. Aiea—Rainbow Bay, Oahu<br>Supplemental appropriation for planning, land acquisition, and construction for development of the Aiea-Rainbow Bay Recreational Area.   | 500,000 |
| 2. Makena LaPerouse State Park, Maui<br>Land, plans and construction for incremental development of Makena LaPerouse State Beach Park to supplement prior appropriations.   | 900,000 |
| 3. Malaekahana Beach Park, Oahu<br>Incremental acquisition by direct purchase, exchange or otherwise, planning and construction of TMK 5-6-01: parcels 6, 7, 11 thru 65, and approximately 20 acres at Makahoa Point TMK 5-6-02: por. 10. Unencumbered balances from item IV-N-1-2, item IV-B-22-1 and item I-B-2 of section 91, Act 195, Session Laws of Hawaii 1975 may be used in conjunction with this appropriation. Remaining funds may be used to purchase adjoining Hukilau Beach property, TMK 5-5-9: parcels 11 and 45. Provided that \$4 million in state funds hereby appropriated may be matched by federal funds as available and shall be used in conjunction with this appropriation. | 700,000 |
| 4. Sacred Falls State Park, Oahu<br>Plans and construction for the incremental development of the State park.   | 500,000 |

**M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

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| 1. Arizona Memorial Museum Foundation, Oahu<br>Grant-in-aid to the Arizona Memorial Museum Foundation which shall be utilized by the Navy for the plans and construction of the Shoreside Support Complex, Arizona Memorial. | 350,000 |
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**H. DEPARTMENT OF HEALTH**

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| 1. Castle Memorial Hospital, Oahu<br>Plans and construction for the development of Castle Memorial Hospital. Grant-in-aid. (To be expended by the Department of Health)   | 250,000 |
| 2. Kapiolani Hospital Center, Oahu<br>Plans and construction for the development of Kapiolani Hospital Center. Grant-in-aid. (To be expended by the Department of Health) | 250,000 |

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| 3. Kauai Veterans Memorial Hospital, Kauai   | 800,000 |
| Plans and construction for Phase II - new acute care wing.   |         |
| 4. Kuakini Medical Center, Oahu  | 250,000 |
| Plans and construction for the development of Kuakini Medical Center.  |         |
| Grant-in-aid. (To be expended by the Department of Health)   |         |
| 5. Queen's Medical Center, Oahu  | 250,000 |
| Plans and construction for the development of Queen's Medical Center.  |         |
| Grant-in-aid. (To be expended by the Department of Health)   |         |
| 6. St. Francis Hospital, Oahu  | 250,000 |
| Plans and construction for the development of St. Francis Hospital. Grant-in-aid. (To be expended by the Department of Health)     |         |
| 7. Wahiawa General Hospital, Oahu  | 250,000 |
| Plans and construction for the development of Wahiawa General Hospital. Grant-in-aid. (To be expended by the Department of Health) |         |

**W. COUNTY OF HAWAII**

(To be expended by the County of Hawaii)

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| 1. South Kohala Water Project, Lalamilo, Hawaii   | 1,000,000 |
| Plans and construction for development, including conversion of existing Lalamilo Well A (5946-01) to production well, transmission mains, storage facilities, standby well and appurtenances. Funds from the private sector shall also be used for the purposes of this project. |           |
| 2. Waiolama Canal and Estuary, Hilo, Hawaii   | 500,000   |
| Land acquisition, plans, and construction for dredging and realignment of Waiolama Canal, including the construction of an adjacent estuary.  |           |

**WW. COUNTY OF HAWAII**

(To be expended by the Water Commission)

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| 1. Drinking Water Program Grant for Hawaii County  | 400,000 |
| Plans and construction for water systems to comply with the requirements of the Safe Drinking Water Act.   |         |
| 2. Keaau-Pahoa Trunk Line, Puna, Hawaii  | 200,000 |
| Plans and construction for development, including ground water source, storage facilities and incremental construction of trunk line and other appurtenances. Unexpended balances in item I-H-52, Act 218, Session Laws of Hawaii 1974 shall be used in conjunction with this appropriation. |         |

**VW. COUNTY OF MAUI**

(To be expended by the Maui County Board of Water Supply)

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| 1. Water Treatment Plant Facilities, Maui County  | 500,000 |
| Land, plans and construction for incremental development of water treatment plant facilities for all the different surface water systems in Maui County, including source and engineering studies, improvements and all other appurtenant work. |         |

**SECTION 3.** Act 9, Special Session Laws of Hawaii 1977, Item III-U-11 of Section 2 is amended to read as follows:

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| "11. Kahaluu District Park and Civic Center, Oahu  | 75,000 |
| Land acquisition, plans, designs, surveys, and construction for Kahaluu District Park and Kahaluu Civic Center." |        |

**SECTION 4.** Act 9, Special Session Laws of Hawaii 1977, Item III-M-4 of Section 2 is amended to read as follows:

"4. Mililani Community Library, Oahu  
Plans and construction for a community library."

215,000

**SECTION 5.** The appropriations and authorization in section 2 of this Act include land purchase, plans, site preparation, improvements to land, construction, and necessary equipment.

**SECTION 6.** The designated expending agency for capital investments authorized in this Act is authorized to delegate to other State or county agencies the acquisition of land, design, and construction of such projects when it is determined by such expending agency that it is more advantageous to do so.

**SECTION 7.** In releasing funds for projects, the governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

**SECTION 8.** Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital investment project described in this Act, the governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for a project is insufficient.

**SECTION 9.** The negotiation for the purchase of land by the state agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor determines that such acquisition and exchange are necessary for the completion of any herein authorized projects.

**SECTION 10.** In case the amount specified for any capital improvement project shall not be wholly required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete such work, the unrequired amount may be expended, with the approval of the governor, for any other capital improvement project authorized by the legislature, in this Act or in a prior year.

**SECTION 11.** Where the governor or any agency of any government unit is able to secure federal funds or other property made available under any Act of Congress, or any funds or other property from private organizations or individuals, to be expended in connection with any project authorized by this Act, or otherwise, the governor or agency with the governor's approval shall have the power to enter such undertaking with the proper offices or agencies of the federal government or private organization or individuals. While most federal-aid allocations are known and local matching funds are provided in this Act, there may be projects for which federal-local cost sharing is not yet determined. In such cases, the availability of federal funds shall be construed as a reduction of state costs whenever possible.

SECTION 12. Where appropriations or authorizations for department of education or University of Hawaii projects specify the number of units, classrooms, partitions, etc., and the amount appropriated or authorized is insufficient to plan for and construct the specified number, the agency may plan for and construct less than the number specified.

SECTION 13. For any project jointly funded by state and county moneys, state funds shall be used only when the county provides at least its pro rata share as indicated in the project authorization.

SECTION 14. In the event the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, or such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

SECTION 15. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act which are unencumbered as of June 30, 1982 shall lapse as of that date; provided that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement.

SECTION 16. Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the governor, or the director of finance, if so delegated by the governor, with the concurrence of the president of the senate and the speaker of the house of representatives, shall transfer the necessary funds to the proper expending agency.

SECTION 17. In expending moneys appropriated in item H-10, section 88, Act 195, Session Laws of Hawaii 1975, and item H-26, section 86, Act 10, Special Session Laws of Hawaii 1977, for Kahana Valley State Park, the board of land and natural resources may use state summer student help, and such temporary personnel who shall be exempted from provisions of chapters 76 and 77, Hawaii Revised Statutes, and who are residents of Kahana Valley for the programs of Kahana Valley State Park, including heritage, cultural, enrichment, historical preservation, archaeological reconstruction, recreational facilities construction, and other park facilities and programs which shall be approved by the board. The board may enter into contract for hiring the personnel described in this section and for equipment, supplies, materials, labor, professional services, technical assistance, and support services to be used in this project.

SECTION 18. If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31, of each year shall be made to the

legislature by February 1, of the following calendar year.

SECTION 19. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 20. Where county capital improvement projects are partially or totally funded by state grants-in-aid as authorized in this Act or any other act of the legislature, this fact shall be appropriately acknowledged during construction and upon completion of these projects.

SECTION 21. The release of grants-in-aid to various private hospitals as provided for in section 2 of this Act, shall be contingent upon satisfactory evidence that these institutions are developing and implementing affirmative action programs.

SECTION 22. Item 1-B-2, Section 2 of Act 197, Session Laws of Hawaii 1971 is amended to read as follows:

"2. Kahaluu District Park, Kahaluu, Oahu  
Acquisition of land, plans and construction of a community activity facility  
and/or a multi-purpose resource center."

SECTION 23. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 24. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 25. This Act shall take effect on July 1, 1978.

(Approved June 20, 1978.)

ACT 245

S.B. NO. 1820-78

A Bill for an Act Relating to Standards of Conduct, Including Disclosure of Financial Interests by Legislators and State Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 84-3, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 84-3 Definitions.** (1) "Business" includes a corporation, a partnership, a sole proprietorship, a trust or foundation, or any other individual or

\*Edited accordingly.



organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest be greater or less than fifty per cent.

(4) "Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State, but excluding legislators, justices and judges.

(5) "Employment" means any rendering of services for compensation.

(6) "Financial interest" means an interest held by an individual, his or her spouse, or dependent children which is:

(A) An ownership interest in a business.

(B) A creditor interest in an insolvent business.

(C) An employment, or prospective employment for which negotiations have begun.

(D) An ownership interest in real or personal property.

(E) A loan or other debtor interest.

(F) A directorship or officership in a business.

(7) "Official act" or "official action" means a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Official authority" includes administrative or legislative powers of decision, recommendation, approval, disapproval, or other discretionary action.

(9) "State agency" includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices, the University of Hawaii, and all independent commissions and other establishments of the state government but excluding the courts."

SECTION 2. Section 84-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 84-14 Conflicts of interest.** (a) No employee shall take any official action directly affecting:

(1) A business or other undertaking in which he has a substantial financial interest; or

(2) A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

A department head who is unable to disqualify himself on any matter described in items (1) and (2) above will not be in violation of this subsection if he has complied with the disclosure requirements of section 84-17; and

A person whose position on a board, commission, or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which he has a substantial financial interest;

provided that the substantial financial interest is related to the member's particular qualifications.

(b) No employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

(c) No legislator or employee shall assist any person or business or act in a representative capacity before any state or county agency for a contingent compensation in any transaction involving the State.

(d) No legislator or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which he has participated or will participate as a legislator or employee, nor shall he assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the legislature or agency of which he is an employee or legislator.

(e) No employee shall assist any person or business or act in a representative capacity before a state or county agency for a fee or other consideration on any bill, contract, claim, or other transaction or proposal involving official action by the agency if he has official authority over that state or county agency unless he has complied with the disclosure requirements of section 84-17."

SECTION 3. Section 84-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 84-15 Contracts.** (a) A state agency shall not enter into any contract with a legislator or an employee or with a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of \$1,000 unless the contract has been awarded through an open, public process. A state agency may, however, enter into such contract without resort to a competitive bidding process when, in the judgment of the agency, the property or services should not, in the public interest, be acquired through competitive bidding; provided that written justification for the non-competitive award of such contract shall be made a matter of public record and shall be filed with the state ethics commission at least ten days before such contract is entered into.

With respect to members of boards, commissions, and committees, this subsection shall apply only to contracts entered into between a business in which a member has a controlling interest and a state agency which has jurisdiction over the board, commission, or committee to which he is appointed.

(b) A state agency shall not enter into a contract with any person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in state office or employment in the matter with which the contract is directly concerned."

SECTION 4. Section 84-17, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 84-17 Requirements of disclosure.** (a) For the purposes of this section, the term "disclosure period" refers to the period from January 1 of the

preceding calendar year to the time of the filing of the employee's or legislator's disclosure of financial interests.

(b) The disclosure of financial interests required by this section shall be filed between January 1 and April 30 of each year or within thirty days of one's election or appointment to a state position enumerated in subsection (c).

(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, the lieutenant governor, and the members of the legislature.
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department.
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions.
- (4) The administration director of the State, and the assistants in the office of the governor and the lieutenant governor, other than persons employed in clerical, secretarial, or similar positions.
- (5) The hearings officers of every state agency and department.
- (6) The president, the vice presidents, the chancellors, and the provosts of the University of Hawaii and its community colleges.
- (7) The superintendent, the deputy superintendent, the assistant superintendents, and the district superintendents of the department of education.
- (8) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory.

(d) The financial disclosure statements of the following persons shall be public records and available for inspection as specified in section 92-51:

- (1) The governor, the lieutenant governor, and the members of the legislature.
- (2) The directors of the state departments and their first and second deputies.
- (3) The administrative director of the State.
- (4) The president, the vice presidents and the chancellors of the University of Hawaii.
- (5) The superintendent and the deputy superintendent of the department of education.

(e) The information on the financial disclosure statements shall be confidential, except as provided in section 84-17 (d). The commission shall not release the contents of the disclosures except as may be permitted pursuant to this chapter. Any person who releases any confidential information shall be subject to section 84-31 (c).

(f) The disclosure of financial interest shall state, in addition to the finan-

cial interests of the person disclosing, the financial interests of the person's spouse and dependent children, and shall include:

- (1) The source and amount of all income of \$1,000 or more received, for services rendered, by the person in his own name or by any other person for his use or benefit during the preceding calendar year and the nature of the services rendered; provided that information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income need not be disclosed.
  - (2) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business incorporated, regulated, or licensed to carry on business in the State having a value of \$5,000 or more or equal to ten per cent of the ownership of the business and, if the interest was transferred during the disclosure period, the date of the transfer; provided that an interest in the form of an account in a federal or state regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed.
  - (3) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the disclosure period, the term of office and the annual compensation.
  - (4) The name of each creditor to whom the value of \$3,000 or more was owed during the disclosure period and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed.
  - (5) The tax map key number and street address, if any, and the value of any real property in the State in which the person holds an interest whose value is \$10,000 or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration.
  - (6) The names of clients personally represented before state agencies, except in ministerial matters, for a fee or compensation during the disclosure period and the names of the state agencies involved.
  - (7) The amount and identity of every creditor interest in an insolvent business held during the disclosure period having a value of \$5,000 or more.
- (g) Where an amount is required to be reported, the person disclosing the same shall report the amount as exactly as is practicable. An amount of stock shall be reported by number of shares and by estimated market value on the date reported.
- (h) The state ethics commission shall provide a short form of disclosure for subsequent annual filings in those instances where the financial interests of the person disclosing are substantially the same as those reported for the preceding disclosure period.

(i) Failure of a legislator or employee to file a disclosure of financial interests as required by this section shall be a violation of this chapter."

SECTION 5. Chapter 84, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**Sec. 84- List of persons examining records.** The State ethics commission shall establish and maintain a list of all persons who examine the financial disclosure statements of any person enumerated in section 84-17 (g).† Such list shall specify the name of the person examining the record, the name of the person whose record was examined and the date of examination. Such list shall be confidential; provided that the commission shall notify the person whose financial disclosure statement was examined of the name of the person who examined the financial disclosure statement. The State ethics commission may adopt rules pursuant to chapter 91 to implement this section."

SECTION 6. **Severability clause.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 20, 1978.)

ACT 246

H.B. NO. 1779-78

A Bill for an Act Making Appropriations to the Judiciary for the Fiscal Biennium July 1, 1977, to June 30, 1979, and Authorizing the Issuance of Bonds.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Judiciary Supplemental Appropriations Act of 1978.

SECTION 2. This Act amends Act 11, Special Session Laws of Hawaii 1977.

SECTION 3. These appropriations and authorizations, as the case may be, set forth opposite the cost categories in Section 3, Act 11, Special Session Laws of Hawaii 1977, for the following programs, are amended to read as follows:

†Probably should read "84-17 (d)".

\*Edited accordingly.

# ACT 247

Item No.	Program	Program I.D.	FY 1977-78	FY 1978-79	Total Biennium 1977-79
THE JUDICIAL SYSTEM					
Court Operations					
3	Circuit Courts Operating	JUD 111	197.50* 4,399,428A	214.50* 4,658,908A	9,058,336A
4	Family Courts Operating	JUD 112	195.50* 3,648,796A	197.50* 3,763,152A	7,411,948A
5	District Courts Operating	JUD 121	286.00* 4,390,593A	303.00* 4,713,070A	9,103,663A
Support Services					
6	Administrative Director Services Operating	JUD 201	38.00* 1,018,385A	40.00* 1,264,852A	2,283,237A
7	Law Library Operating	JUD 202	7.00* 311,906A	8.00* 333,608A	645,514A
9	Hawaii Criminal Justice Information System Data Center Operating	JUD 203		174,805A 223,100N	174,805A 223,100N

SECTION 4. Act 11, Special Session Laws of Hawaii 1977, is amended by adding the following new section to read as follows:

“SECTION 7A. Provided that of the general fund appropriation in Fiscal Year 1978-79 to Hawaii Criminal Justice Information System Data Center (JUD 203), \$130,000 shall be used to augment existing general funds and to match approximately \$223,100 of federal funds to continue the implementation of the Comprehensive Data System.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect on July 1, 1978.

(Approved June 20, 1978.)

ACT 247

H.B. NO. 2432-78

A Bill for an Act Relating to the Garnishment of Property and Choses in Action.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*Edited accordingly.

SECTION 1. Section 652-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) Before judgment. When any goods or effects of a debtor are in the possession of an attorney, agent, factor, or trustee (in this chapter jointly and severally included in the term “garnishee”), or when any debt is due from any person (also included under the term “garnishee”) to a debtor, or when any person has in his possession for safekeeping any moneys of the debtor, any creditor may bring his action against the debtor and in his petition for process, or by amendments of the complaint at any time before judgment, after meeting the requirements of section 652-1.5 may request the court to insert in the process a direction to the officer serving the same to leave a true and attested copy thereof with the garnishee or at his usual place of abode and to summon the garnishee to appear personally upon the day or term appointed in the process for hearing the action or at any other time appointed by the court and then and there on oath to answer all of the following inquiries, herein inclusively referred to as the “disclosure”:

- (1) Whether at the time the copy was served on him, he had any of the goods or effects of the defendant in his hands and, if so, the nature, amount and value thereof;
- (2) Whether at the time of service, he was indebted to the defendant and, if so, the nature and amount of the debt; or
- (3) Whether at the time of service on him, he had any moneys of the defendant in his possession for safekeeping and, if so, the amount thereof.

The summons and direction shall be signed and issued as is usual in other civil process after proceedings under section 652-1.5. The summons shall specify an amount or value of money, debt or goods or effects to be garnished which shall not exceed 120 per cent of the amount of the plaintiff’s claim, including cost and interest. The summons shall be served according to such accompanying direction. Upon receipt of the summons, the garnishee shall secure in his hands to pay such judgment as the plaintiff shall recover in the action, such of the following property or choses then in the garnishee’s possession or owing to the defendant as shall equal the amount or value specified in the summons, except what the court has expressly found to be exempt from execution pursuant to section 652-1.5 (d) or (f):

- (1) The goods and effects of the defendant then in the hands of the garnishee;
- (2) Any debt then owing from the garnishee to the defendant;
- (3) Moneys of the defendant then in the possession of the garnishee for safekeeping; and
- (4) A portion of the defendant’s wages, salary, stipend, commissions, annuity, or net income under a trust (in this chapter included under the term “wages”), remaining after the deduction of any amounts required by law to be withheld by withholding the amount to be determined as follows: five per cent of the first \$100 per month, ten per cent of the next \$100 per month, and twenty per cent of all sums in excess of \$200 per

month, or an equivalent portion of the above amount per week, whether then or thereafter to become owing.

The property or choses described in (1), (2), (3), and (4) of this paragraph are included under the term "garnishee fund" (in this chapter). The cumulative total value of the fund, in advance of final judgment, shall be no more than the amount specified in the summons.

Except as provided in section 652-1.5, the summons and direction shall be sufficient notice to the defendant to enable the plaintiff to bring his action to trial, unless the defendant is an inhabitant of the State or has some time resided therein, in which case a like copy shall be served personally upon him or left at his last and usual place of abode.

The court shall order the garnishee fund released at the hearing provided in section 652-1.5 or thereafter upon the filing by the debtor with the court of a bond or bonds issued by a surety or sureties licensed to do business as such in the State, in an amount sufficient to pay the claim of the creditor together with costs and interest, and conditioned upon judgment rendered in favor of the creditor and to the extent of the claim or any portion thereof, together with costs and interests, if any, is awarded."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 20, 1978.)

ACT 248

H.B. NO. 258

A Bill for an Act Relating to the Definition of Death.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section, to be appropriately designated, and to read as follows:

**"Sec. - Determination of Death.** (a) Except as provided in subsection (b) of this section, a human body shall be considered dead if in the announced opinion of a physician licensed under chapter 453, based on ordinary standards of current medical practice, the human body has experienced irreversible cessation of spontaneous respiratory and circulatory functions. Death will have occurred at the time when the irreversible cessation of the functions first coincided.

(b) In the event that artificial means of support preclude a determination that respiratory and circulatory functions have ceased, a human body shall be considered dead if, in the opinion of an attending physician licensed under chapter 453, and of a consulting physician, who shall be a neurologist or neurosurgeon, and licensed under chapter 453, based on ordinary standards of current medical practice, the person has experienced irreversible cessation of brain function. The opinions of the physicians shall be evidenced by signed statements. Death will have occurred at the time when the irreversible cessation of brain function first occurred. Death shall be pronounced before artificial



means of support are withdrawn and before any vital organ is removed for purposes of transplantation.

(c) When a part of a donor is used for direct organ transplantation under chapter 327, and the donor's death is established by determining that the donor experienced irreversible cessation of brain function, the determination shall only be made under subsection (b) of this section. Neither of the physicians making the determination of death shall participate in the procedures for removing or transplanting a part, or in the care of any recipient.

(d) All death determinations in the State shall be made pursuant to this section and shall apply to all purposes, including but not limited to civil and criminal actions, any laws to the contrary notwithstanding, provided that presumptive deaths under the Uniform Probate Code shall not be affected by this section.

(e) The director of health shall convene in every odd-numbered year, a committee which shall be composed of representatives of appropriate general and specialized medical professional organization, licensed attorneys, and members of the public. The committee shall review medical practice, legal developments and other appropriate matters to determine the continuing viability of this section, and shall submit a report of its findings and recommendations to the legislature, prior to the convening of the regular session held in each even-numbered year."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

The foregoing became law on June 20, 1978, without the Governor's signature, pursuant to Art. III, §17, State Constitution.

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\*Edited accordingly.



# **TABLES SHOWING EFFECT OF ACTS**



## **GENERAL INDEX**

TABLES SHOWING EFFECT OF ACTS  
NINTH LEGISLATURE, REGULAR SESSION OF 1978  
STATE OF HAWAII

Key: Am = Amended  
N = New  
R = Repealed  
Ree = Reenacted  
Ren = Renumbered

Sp = Special Session  
— = Section number to be  
assigned in HRS  
Supplement

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